

## **EXECUTIVE ORDER NO. 16-03**

WHEREAS, Act 137, 2013 Session Laws of Hawai'i established a new collective bargaining unit to represent state law enforcement officers and state and county ocean safety and water safety officers; and

WHEREAS, the Hawai'i Labor Relations Board (HLRB) Decision Order No. 2949 dated November 7, 2013 granted the Petition for Clarification or Amendment of the Appropriate Bargaining Unit relating to those positions that constitute Bargaining Unit 14 and further ordered the transfer of those positions from Bargaining Units 3 and 4 to Bargaining Unit 14; and

WHEREAS, Act 137 further provided that the rights, benefits, and privileges currently enjoyed by state law enforcement officers and state and county ocean safety and water safety officers shall be maintained under their existing collective bargaining agreement and any successor agreement until a collective bargaining agreement is negotiated for the new bargaining unit (14); and

WHEREAS, under chapter 89C of the Hawaii Revised Statutes, the Governor is granted the authority to make adjustments to the wages, hours, benefits, and other terms and conditions of employment for elected and appointed officials, and employees in the Executive Branch who are excluded from collective bargaining coverage; and

WHEREAS, for excluded employees who are civil service employees under the same classification systems as employees within collective bargaining units, chapter 89C requires that the adjustments be "not less than" those provided under the collective bargaining agreements for employees hired on a comparable basis; and

WHEREAS, chapter 89C also requires that the adjustments for excluded civil service employees result in compensation and benefit packages that are “at least equal to” the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the Employer’s jurisdiction; and

WHEREAS, chapter 89C provides that each appropriate authority shall determine the adjustments that are relevant for their respective excluded employees who are exempt from civil service in consideration of the compensation and benefit packages provided for other employees in comparable agencies; and

WHEREAS, an interest arbitration decision has been issued for Bargaining Unit (BU) 14 for the February 22, 2016 through June 30, 2017, collective bargaining agreement; and

WHEREAS, based on the interest arbitration decision, the Director of Human Resources Development has recommended to the Governor the adjustments specified in this Executive Order for civil service and exempt employees within the executive branch who are excluded from BU 14;

NOW, THEREFORE, I, David Y. Ige, Governor of Hawai‘i, pursuant to my executive authority under articles V and VII of the Constitution of the State of Hawai‘i, the provisions of chapters 37 and 89C of the Hawaii Revised Statutes, and all other applicable authority, do hereby order, effective February 22, 2016 through June 30, 2017, the following for civil service and exempt employees excluded from BU 14 and Excluded Managerial Compensation Plan (EMCP) employees excluded from BU 14:

Attachment A – Provisions for Employees Excluded from BU 14

Attachment B – EMCP Salaries

IT IS FURTHER ORDERED that this Executive Order does not apply to:

(1) employees of public charter schools and the Department of Education; (2) the University of Hawai'i; (3) employees hired for 89 days or less; and (4) those Executive Branch employees whom I later determine shall not receive the aforementioned adjustments; and

IT IS FURTHER ORDERED that this Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i or its agencies, departments, entities, employees, or any other person; and

IT IS FURTHER ORDERED that these provisions are subject to amendment by Executive Order.

The Director of Human Resources Development shall be responsible for the uniform administration of this Executive Order and is authorized to make any interpretations concerning the applicability of this Executive Order to employees of the State Executive Branch who are excluded from collective bargaining coverage.

DONE at the State Capitol, Honolulu,  
State of Hawai'i, this 13<sup>th</sup> day of  
June, 2016.



DAVID Y. IGE  
Governor

APPROVED AS TO FORM:

  
for DOUGLAS S. CHIN  
Attorney General

**Provisions for Employees  
Excluded from BU 14  
(BU 74, 94, and 37)**

**State of Hawai'i  
Department of Human Resources  
Development**

This document shall apply to employees excluded from BU 14 unless explicitly stated.

Provisions of this executive order build upon provisions contained in previous executive orders, including the 1991 compilation of executive order provisions. Therefore, it is necessary to review the previous executive orders, along with this new executive order, to insure awareness of all executive order provisions applicable to a particular subject matter.

Articles or sections in this document labeled "*RESERVED*" shall mean that the corresponding part of the collective bargaining agreement does not apply to excluded employees.

The articles in this document apply to all employees excluded from BU 14 unless otherwise specifically identified.

Excluded BU 14 (BU 74, 94, and 37)

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**ARTICLE 1 – RESERVED**

**ARTICLE 2 – CONFLICT**

If there is any conflict between the provisions of this document and any of the rules and regulations of any Civil Service or other personnel regulations applicable to Employees, the terms of this document shall prevail.

**ARTICLE 3 – MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and Civil Service rules and regulations and Hawai'i Revised Statutes at the time of execution of this document, but excluding matters which are not negotiable under Chapter 89, HRS.

**ARTICLE 4 – PERSONNEL POLICY CHANGES**

The Employer may voluntarily consult with applicable excluded employee organizations prior to effecting changes in any major policy affecting Employee relations.

**ARTICLE 5 – RIGHTS OF THE EMPLOYER**

The Employer reserves and retains, solely and exclusively, all management rights, powers, and authority, including the right of management to manage, control, and direct its work forces and operations except those as may be modified under this document.

**ARTICLE 6 – RESERVED**

**ARTICLE 7 – REPRESENTATION RIGHTS**

A. Employees may attend up to four informational and educational meetings per year conducted by excluded employee organizations. When more than one session is held for an informational and educational meeting, all Employees will have an opportunity to attend one of these sessions. Each session shall last no longer than two (2) hours. Employees shall be afforded reasonable travel time to and/or from the meeting, provided that travel time outside of the Employees' work hours shall not be considered work time.

B. *RESERVED*

C. Full-time excluded employee organization representatives shall be permitted to visit and confer with Employees at their work sites regarding complaints and appeals. The excluded employee organization representatives will notify the appropriate supervisor when they

arrive at the work site. While on the Employer's premises or work site, the representative will not interfere with normal operations.

D. *RESERVED*

E. *RESERVED*

F. *RESERVED*

G. *RESERVED*

H. *RESERVED*

I. Employees may be permitted to use the Employer's conference rooms or other similar facilities for meetings during non-working hours.

#### **ARTICLE 8 – DISCIPLINE**

A. Regular Employees shall not be disciplined without proper cause. Complaints regarding these matters shall be handled as provided in HRS 76-1, 76-42, and 76-47. Pursuant to these sections, Employees who are excluded from coverage under Chapter 89 may appeal personnel actions through the departmental Internal Complaint Procedures and subsequently to the Merit Appeals Board.

B. Exempt Employees who meet all of the conditions listed below shall not be disciplined without proper cause. The conditions are:

1. Employee is in an exempt position in an ongoing program and whose appointment does not have a termination date.

2. Employee occupies a position which is within the authorized position ceiling as provided in the State Appropriations Act.

3. Employee has at least six (6) continuous months of service in the present position.

C. Disciplinary action taken against any Employee shall be considered confidential.

D. When an Employee is orally reprimanded, it shall be done privately.

E. Written Reprimands.

1. A written reprimand issued to an Employee shall contain the specific reasons for the action.

2. The written reprimand shall be issued to the Employee in person or, if impracticable, mailed to the Employee's last known address.

F. Suspensions.

1. Whenever an Employee is suspended for four (4) or less working days, the Employee shall be given written notice of the suspension within forty-eight (48) hours after the suspension; provided that, for suspensions of five (5) or more working days, the Employee shall be given written notice of the suspension prior to the commencement of the suspension. The notice shall contain the following:

- a. The specific reason(s) for the suspension; and
- b. The effective date(s) of the suspension.

2. The notice of suspension shall be provided to the Employee in person or, if impracticable, mailed to the Employee's last known address.

G. Discharges and Disciplinary Demotions.

1. Whenever a discharge or disciplinary demotion action is to be taken against an Employee, the Employee shall be given a written notice of such action. The notice shall contain the following:

- a. The specific reason(s) for the action;
- b. The effective date(s) of the discharge or disciplinary demotion; and
- c. An opportunity to respond prior to the effective date of the discharge or disciplinary demotion action.

2. A written notice of a discharge or disciplinary demotion action shall be issued to the Employee in person, or if impracticable, mailed to the Employee's last known address at least ten (10) days prior to the discharge or disciplinary demotion action.

3. A disciplinary demotion shall be for a specified period of time.

## ARTICLE 9 – REDUCTION-IN-FORCE/LAYOFF

*Part I of this proposal applies to excluded Bargaining Unit 3 (BU 63) employees transferred to Bargaining Unit 14 through Legislative action. Part II of this proposal applies to excluded Bargaining Unit 4 (BU 94) employees transferred to Bargaining Unit 14 through Legislative action.*

### Part I (For excluded Bargaining Unit 3 (BU 63) employees transferred to Bargaining Unit 14)

A. All personnel actions under Part I of this Article shall be restricted to excluded members and positions transferred from excluded Bargaining Unit 3 (BU 63) and shall be confined to the governmental jurisdiction in which the reduction-in-force occurs.

B. When there is an impending reduction-in-force because of lack of work or funds, the appointing authority shall inform the respective Central Personnel Agency, in writing, as soon as possible but in any case at least ninety (90) calendar days before the impending reduction-in-force will take place.

C. *RESERVED*

D. Waiver of Bumping Rights. The Employee affected by the reduction-in-force may waive bumping rights, in writing to the Central Personnel Agency, thereby limiting placement to vacant positions.

E. Retention Points for Regular Employees. In the event of a reduction-in-force, the displacement or termination of services of an Employee shall be based on the Employee's total continuous creditable service within the Employee's applicable governmental jurisdiction but not excluding the combined service time of classes of Employees whose functions are transferred from one jurisdiction to another through action of the legislature. Except for Employees who are laid off and rehired within one (1) year, service prior to separation from service with the Employer is not creditable, in which case, creditable service shall begin on the date of the Employee's return to service. Retention points shall be computed on the basis of one (1) point for each full month of employment in the applicable jurisdiction, including service in another jurisdiction prior to any transfer of the Employee's position to the applicable jurisdiction through legislative action. A fraction of a month of service shall be used to break "ties." Retention points shall be computed up to the day on which the work or funds terminate. Creditable service for purposes of computing retention points shall include all authorized non-disciplinary leaves of absence, however, suspensions (including unauthorized leave charged in lieu of suspension) shall not constitute a break in continuous service.

F. Conditions for Placement of Regular Employees.

1. The Employee must meet the minimum qualification requirements of the class of the position in which the Employee is to be placed.

2. The Employee is a regular Employee of the jurisdiction.

3. The Employee shall have priority for placement in the vacant position to which the Employee is referred under the provisions of this Article.

4. The Employee shall be referred for placement in a position on the basis of the Employee's indication of the geographic location(s) (island and district) where the Employee is willing to be placed; the minimum pay range not higher than that of the Employee's present position, that the Employee will accept; and the type of appointment, regular and/or non-regular, that the Employee will accept.

5. The Employee shall be entitled to only one referral for placement in a position which is in accordance with the terms the Employee specified as provided for in (4) above. If the Employee should fail to accept the offer of employment in the position, the Employee's services shall be terminated on the abolishment date of the position or termination of funds or work, or the date of displacement, and the Employee's name shall be placed on the recall list.

G. Bumping Procedures for Regular Employees with the Employing Department. If the Employee cannot be placed in a vacant position, a reduction-in-force will be effectuated. Subject to the conditions set forth in (F) above, the following order shall be observed in bumping and layoff of Employees.

1. Non-regular Employee who occupies a permanent position in the same class when there is more than one such Employee, in the following order: first, an Employee serving an emergency appointment; second, temporary appointment outside the list; third, a limited-term appointment Employee; and fourth, a probational appointment Employee.

2. Regular Employee who occupies a position in the same class and has the least retention points.

3. Non-regular Employee who occupies a permanent position in a related class of the same pay range. When there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

4. Regular Employee who occupies a position in a related class of the same pay range and has the least retention points.

5. Non-regular Employee who occupies a permanent position in a class of a lower pay range in the same series. Where there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

6. Regular Employee who occupies a position in a class of a lower pay range in the same series and has the least retention points.

7. Non-regular Employee who occupies a permanent position in a class of a lower pay range in a related series. Where there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

8. Regular Employee who occupies a position in a class of a lower pay range in a related series and has the least retention points.

When the Employee cannot be placed in another permanent position, the same order of bumping may be repeated for temporary positions prior to layoff. In the event that a regular Civil Service Employee has less than twenty-four (24) retention points and cannot be placed in the Employee's department, the appointing authority shall notify the affected Employee and the Central Personnel Agency in writing at least sixty (60) calendar days prior to the layoff. The appointing authority shall also notify the Central Personnel Agency in writing that a jurisdiction-wide reduction-in-force needs to be effectuated provided that the Employee has at least twenty-four (24) retention points and is a regular Civil Service Employee.

H. Jurisdiction-wide Reduction-in-Force for Regular Employees. A jurisdiction-wide reduction-in-force action will be effectuated only for a regular Civil Service Employee who has not been referred for placement or cannot be placed in an appropriate position within the employing department and if the Employee has regular or permanent Civil Service status with the jurisdiction with at least twenty-four (24) retention points. A regular Employee with less than twenty-four (24) retention points will have retention rights only within the department in which the Employee is employed. The Employee affected by reduction-in-force shall be referred for placement in another position on the basis of Section F, Conditions for Placement of Regular Employees. In a jurisdiction-wide reduction-in-force action, the order used shall be in accordance with Section G, Bumping Procedures for Regular Employees within the Employing Department. When a regular Employee cannot be placed in another position, the Central Personnel Agency shall notify the Employee, at least sixty (60) calendar days prior to the date the Employee's services will be terminated, and the Employee's name will be placed on the appropriate recall list.

I. Placement of Laid Off Regular Employees on the Recall List. A regular Employee who has been laid off shall have the Employee's name placed on the recall list for the class of work from which the Employee's services were terminated and any related class at the same salary range for which the Employee meets the minimum qualification requirements provided there is no recall list for such related class. The Employee's eligibility may be terminated for any of the following reasons:

1. The Employee is no longer able to perform satisfactorily the duties of the class of work.
2. The Employee is appointed to a permanent position.
3. The Employee refuses two (2) offers of employment under the conditions that the Employee had previously indicated the Employee would accept.
4. The Employee fails to respond without good cause within ten (10) days to a written inquiry sent to the last address the Employee provided.
5. The Employee is no longer available for employment.

6. The Employee fails to report to duty after the Employee's appointment, without good cause, within the time prescribed by the appointing authority.

A laid off Employee's eligibility may be terminated for other valid reasons provided that if such an Employee's eligibility is so terminated, the Employee shall have the right to challenge the validity in accordance with the provisions of Article 11, Appeal Procedure.

J. Rank on the Recall List. Employees shall be ranked on the appropriate recall list and shall be certified to vacancies on the basis of retention points. The Employee with the highest retention points shall be ranked number 1, the next higher, number 2, etc.

K. Laid off Employees on the recall list shall be given first preference in the selection for vacancies over any other eligible lists. The laid off Employee with the highest retention points from the appropriate recall list shall be certified first. Certification of the next highest laid off Employee and subsequent eligibles shall be made only upon the refusal of the position by the higher laid off Employee or should such laid off Employee not be appointed for good cause.

L. *RESERVED*

M. The time limits for notices contained herein shall not apply to the elimination of a Federally funded position where the Employer has insufficient notice by the Federal government to meet the time requirements.

Part II (For excluded Bargaining Unit 4 (BU 84) employees  
transferred to Bargaining Unit 14)

A. All personnel actions under Part II of this Article shall be restricted to excluded members and positions transferred from excluded Bargaining Unit 4 (BU 84) and shall be confined to the governmental jurisdiction in which the layoff occurs.

B. When there is an impending layoff because of lack of work or funds, the appointing authority shall inform the respective Central Personnel Agency, the affected Employee or Employees, in writing, as soon as possible but in any case at least ninety (90) calendar days before the impending layoff will take place.

C. *RESERVED*

D. Waiver of Displacement Rights. The Employee affected by layoff may waive displacement rights, in writing to the Central Personnel Agency, thereby limiting placement to vacant positions.

E. Retention Points for Regular Employees. In the event of a layoff, the displacement or termination of services of an Employee shall be based on the Employee's total continuous creditable service within the Employee's applicable governmental jurisdiction but not excluding the combined service time of classes of Employees whose functions are transferred from one jurisdiction to another through action of the legislature. Except for Employees who are laid off and rehired within one (1) year, service prior to separation from service with the Employer is not creditable, in which case, creditable service shall begin on the date of the

Employee's return to service. Retention points shall be computed on the basis of one point for each full month of employment in the applicable jurisdiction, including service in another jurisdiction prior to any transfer of the Employee's position to the applicable jurisdiction through legislative action. A fraction of a month of service shall be used to break "ties." Service rendered up to the day prior to the day on which layoff is to take place will be included in the computation. The following periods of leaves without pay are creditable for computing retention points: (1) educational; (2) employment with the legislature; (3) loan to other governments; (4) research; (5) industrial injury; (6) United States military service; (7) temporary service in a duly recognized government Employee union; and (8) illness.

F. Conditions for Placement of Regular Employees.

1. The Employee must meet the minimum qualification requirements of the class of the position in which the Employee is to be placed.

2. The Employee is a regular Employee of the jurisdiction.

3. The Employee shall have priority for placement in the vacant position to which the Employee is referred under the provisions of this Article.

4. The Employee shall be referred for placement in a position on the basis of the Employee's indication of the geographic location(s) (island and district) where the Employee is willing to be placed; the minimum pay range, not higher than that of the Employee's present position, that the Employee will accept; and the type of appointment, regular and/or non-regular, that the Employee will accept.

5. The Employee shall be entitled to only one referral for placement in a position which is in accordance with the terms the Employee specified as provided for in (4) above. If the Employee should fail to accept the offer of employment in the position, the Employee's services shall be terminated on the abolishment date of the position or the date of displacement, and the Employee's name shall be placed on the recall list.

G. Bumping Procedures for Regular Employees within the Employing Department. If the Employee cannot be placed in a vacant position, a layoff will be effectuated. Subject to the conditions set forth in (F) above, the following order shall be observed in layoff and displacement of Employees:

1. Non-regular Employee who occupies a permanent position in the same class when there is more than one such Employee, in the following order: first, an Employee serving an emergency appointment; second, temporary appointment outside the list; third, a limited-term appointment Employee; and fourth, a probational appointment Employee.

2. Regular Employee who occupies a position in the same class and has the least retention points.

3. Non-regular Employee who occupies a permanent position in a related class of the same pay range. Where there is more than one such Employee, the order of layoff will be as provided in (1) above.

4. Regular Employee who occupies a position in a related class of the same pay range and has the least retention points.

5. Non-regular Employee who occupies a permanent position in a class of a lower pay range in the same series. When there is more than one such Employee, the order of layoff will be as provided in (1) above.

6. Regular Employee who occupies a position in a class of a lower pay range in the same series and has the least retention points.

7. Non-regular Employee who occupies a permanent position in a class of a lower pay range in a related series. Where there is more than one such Employee, the order of layoff will be as provided in (1) above.

8. Regular Employee who occupies a position in a class of a lower pay range in a related series and has the least retention points.

When the Employee cannot be placed in another permanent position, the same order of displacement may be repeated for temporary positions prior to layoff.

In the event that a regular Civil Service Employee cannot be placed in the Employee's department, the appointing authority shall notify the affected Employee and the Central Personnel Agency in writing at least sixty (60) calendar days prior to the layoff. The appointing authority shall also notify the Central Personnel Agency in writing that a jurisdiction-wide layoff needs to be effectuated if the Employee has at least twenty-four (24) retention points and is a regular Civil Service Employee.

H. Jurisdiction-wide Layoff Action for Regular Employees. A jurisdiction-wide layoff action will be effectuated only for a regular Civil Service Employee who has not been referred for placement or cannot be placed in an appropriate position within the employing department and if the Employee has regular or permanent Civil Service status with the jurisdiction with at least twenty-four (24) retention points. A regular Employee with less than twenty-four (24) retention points will have retention rights only within the department in which the Employee is employed. The Employee affected by layoff shall be referred for placement in another position on the basis of Section F, Conditions for Placement of Regular Employees. In a jurisdiction-wide layoff action, the order used shall be in accordance with Section G, Bumping Procedures for Regular Employees within the Employing Department. When the Employee cannot be placed in another position, the Employee's services will be terminated, and the Employee's name will be placed on the appropriate recall list.

I. Placement of Laid Off Regular Employees on the Recall List. A regular Employee who has been laid off shall have the Employee's name placed on the appropriate recall list and shall have eligibility for placement in the class of work from which the Employee's services were terminated. The Employee's eligibility may be terminated for any of the following reasons:

1. The Employee is no longer able to perform satisfactorily the duties of the class of work.

2. The Employee is appointed to a permanent position.

3. The Employee refuses two offers of employment under the conditions that the Employee had previously indicated the Employee would accept.

4. The Employee fails to respond without good cause within ten (10) days to a written inquiry sent to the last address the Employee provided.

5. The Employee is no longer available for employment.

6. The Employee fails to report to duty after the Employee's appointment, without good cause, within the time prescribed by the appointing authority.

A laid off Employee whose eligibility is terminated for reason other than as specified in this section shall have the right to appeal as provided under Article 11, Appeal Procedure.

J. Rank on the Recall List. Employees shall be ranked on the appropriate recall list and shall be certified to vacancies on the basis of retention points. The Employee with the highest retention points shall be ranked number 1, the next higher, number 2, etc.

K. Laid off Employees on the recall list shall be given first preference in the selection for vacancies over any other eligible lists. The laid off Employee with the highest retention points from the appropriate recall list shall be certified first. Certification on the next highest laid off Employee and subsequent eligibles shall be made only upon the refusal of the position by the higher laid off Employee or should such laid off Employee not be appointed for good cause.

L. *RESERVED*

## **ARTICLE 10 – APPEAL PROCEDURE**

As provided for in HRS 76-1, 76-42, and 76-47, Employees who are excluded from coverage under Chapter 89 may appeal personnel actions through the departmental Internal Complaint Procedures and subsequently to the Merit Appeals Board.

## **ARTICLE 11 – RESERVED**

## **ARTICLE 12 – TEMPORARY ASSIGNMENTS**

A. A temporary assignment shall mean the assignment by a competent authority and the assumption, without a formal change in position assignment, of the significant duties and responsibilities of another position due to:

1. The incumbent of the position not being able to perform the duties of the position,

2. The incumbent of the position also serving on a temporary assignment and the department head certifies that the need for the services is immediate, essential, and in the best interest of the public, or

3. A vacancy that cannot be filled temporarily or permanently by a non-competitive promotion, a transfer or a movement of another Employee and that the department head certifies that the immediate rendition of services is essential and in the best interest of the public and that such temporary assignment shall not exceed one hundred twenty (120) working days; provided however, upon consultation with the Department of Human Resources a temporary assignment may be extended up to an additional sixty (60) working days.

B. *RESERVED*

C. The Employer shall compensate Employees for temporary assignments within thirty (30) days (approximately two pay periods) from the end of each payroll period in which the temporary assignments are performed.

D. Whenever an Employee performs a temporary assignment, the Employer shall provide the Employee with a record of the temporary assignment as evidence of such service for the Employee's personal use and file. Applicable temporary assignment experience may be claimed by an Employee when applying for promotions.

## **ARTICLE 13 – PROMOTIONS**

A. Seniority shall mean an Employee's continuous length of creditable government service in the State and County jurisdictions. Seniority shall not apply to an Employee until the Employee has completed the initial probationary period. Upon satisfactory completion of the

Employee's initial probationary period, the Employee shall be credited with seniority from the date of hire.

All authorized leaves without pay shall not constitute a break in service and shall be creditable for computing total continuous length of service. If an Employee's continuous service is involuntarily terminated in good standing and the Employee returns to the governmental jurisdiction which the Employee left within one (1) year, the break in service shall be disregarded, but shall not be considered as creditable service.

B. When making promotions, Civil Service statutes, rules, regulations, and procedures governing promotions which exist on the effective date of this document shall be applied, except as modified below.

1. For competitive promotions, the existing policies on announcements shall remain in effect. For non-competitive promotions, all notices to fill authorized vacancies shall be posted on appropriate bulletin boards for at least ten (10) calendar days prior to the closing date for receipt of applications. If the Employer does not post the notices for the specified number of days as provided in this section, the Employee shall be entitled to submit a late application;

2. With respect to tests and/or examinations used in selecting Employees for promotions, the Employer shall use tests and/or examinations that directly relate to the skills, abilities, and qualifications required for the class;

3. An Employee selected for promotion must meet the minimum qualifications;

4. Other factors being relatively equal, seniority shall prevail;

5. In the event an Employee with the greatest seniority applies and qualifies for a promotion and is denied the promotion, if the Employee so requests, the Employee shall be given a written statement of the reasons for denial;

6. When the selection is made, a notice of selection shall be posted on the appropriate bulletin board where the vacancy existed;

7. When making promotions, the Employer shall consider the following order of priority:

a. *RESERVED*

b. *RESERVED*

1) Employees within a division on the island where the vacancy occurs;

2) Employees within the department on the island where the vacancy occurs;

- 3) Employees within the division (statewide) where the vacancy occurs;
- 4) Employees within the department (statewide) where the vacancy occurs;
- 5) Employees within the jurisdiction on the island where the vacancy occurs;
- 6) Employees within the jurisdiction (statewide).

(Note: The island of Maui includes the islands of Moloka`i, including Kalaupapa and Lāna`i.)

## ARTICLE 14 – COMPENSATION ADJUSTMENT

*Article 14 shall not apply to EMCP Employees*

### A. General Provisions.

1. For purpose of clarification, the provisions of this Article shall not be applicable where an Employee moves from one (1) governmental jurisdiction to another, except as specifically provided herein.

2. For purposes of this Article, "basic rate of pay" means the rate of pay assigned to the salary range and step an Employee is receiving as compensation. For an Employee whose position is not assigned to the salary range, "basic rate of pay" shall mean the actual rate of compensation an Employee is receiving as remuneration for services performed in a particular position, not including any differentials.

3. When the effective dates of more than one (1) personnel action coincide, pay adjustments shall be made in the following order:

- a. Step movement;
- b. Negotiated wage increase;
- c. Changeover to a new pay schedule;
- d. Repricing;
- e. Promotion;
- f. Reallocation;
- g. Other personnel actions.

4. A leave of absence without pay shall end upon the day before the first working day an Employee properly reports for duty, and an Employee shall be entitled to receive compensation as of the first working day the Employee properly reports for duty. Each calendar day from the beginning to the end of an Employee's leave of absence without pay shall be charged as leave without pay provided that an Employee who is granted a leave of absence without pay and who returns to duty after being absent from work for only one (1) working day or less, shall be charged for one (1) day of leave of absence without pay or less, as applicable, even though one (1) or more scheduled or normal non-working days or a holiday may have preceded the Employee's return to duty.

5. An Employee who leaves the service without having worked on all scheduled working days for that month shall be compensated pursuant to the following formula: Employee's monthly basic rate of pay plus TD, CD, SD, RD, or SAD as applicable X (number of days worked/number of working days in a month, including holidays).

6. An Employee who suffers a disabling personal injury arising out of and in the course of employment, except for an injury caused by the Employee's negligence, willful intention to injure the Employee or others, or by the Employee's intoxication or because of the influence of a non-prescribed controlled substance, shall be credited for a full day's work on the day of the injury regardless of the time the Employee is injured.

7. An Employee who initially was properly compensated following a promotion, the adoption of a new pay schedule, a temporary assignment, pricing or

repricing, or any other personnel action affecting pay, shall not be required to make reimbursement when it is found subsequently that an overpayment in salary occurred due to the retroactive feature of a position classification action. However, the proper pay adjustment shall be made as of the first pay period following the date of notice of action by the director.

8. Employees who are receiving a shortage differential shall have their compensation adjusted in the same manner as their included counterparts occupying positions in shortage and related shortage classes.

B. Compensation Adjustment Upon Promotion.

1. As used in this paragraph, "promotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a higher pay range in the salary schedule.

2. A regular Employee who is promoted shall be compensated as follows:

a. For promotions involving a movement of three (3) or less pay ranges, the Employee shall be compensated at the corresponding step in the higher salary range.

b. For promotions involving a movement of more than three (3) pay ranges, the Employee shall be compensated at the step in the higher salary range which is equal to the rate for promotions involving three (3) pay ranges. If such rate falls below the minimum step, the Employee shall be compensated at the minimum step of the higher pay range.

3. Regular Employees who return to their permanent positions after a promotion on a temporary appointment basis or are released from a new probationary appointment following a promotion shall be compensated as though they had remained in their permanent positions continuously.

C. Compensation Adjustment Upon Demotion.

1. The following definitions shall be applicable to this paragraph:

a. "Demotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a lower pay range in the salary schedule.

b. "Demotion due to a reorganization" means a demotion of an Employee as a result of a reorganization action.

c. "Demotion to avoid layoff" means a demotion accepted by an Employee to avoid being laid off.

d. "Disciplinary demotion" means a demotion action taken by the appointing authority for disciplinary reasons.

e. "Involuntary demotion" means a demotion action taken by the appointing authority due to the Employee's inability to perform the duties and responsibilities of the Employee's position, or due to the Employee's failure to meet qualification requirements for the position.

f. "Non-service connected disability demotion" means the movement of an Employee to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee other than while performing the duties and responsibilities of the Employee's position.

g. "Service connected disability demotion" means the movement of a regular Employee or an Employee serving an initial probationary period to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee while performing the duties and responsibilities of the Employee's position.

h. "Voluntary demotion" means a demotion requested by an Employee and granted by the appointing authority.

## 2. Disciplinary or Involuntary Demotion.

a. A regular Employee who is involuntarily demoted or who is demoted for disciplinary reasons shall be compensated at the corresponding step in the lower salary range or any lower step in the lower salary range.

b. Upon release from a disciplinary demotion given on a temporary basis, a regular Employee shall be compensated as though the Employee had remained in the former position continuously.

## 3. Demotion to Avoid Layoff; Demotion Due to Reorganization; Service Connected Disability Demotion.

An Employee who accepts a demotion to avoid layoff; or is demoted due to a reorganization; or who receives a service connected disability demotion, shall retain the Employee's basic rate of pay; provided:

a. If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

b. If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

## 4. Non-Service Connected Disability Demotion.

An Employee who receives a non-service connected disability demotion shall be compensated as provided below:

a. A regular Employee who has fifteen (15) or more years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay; provided that:

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

b. A regular Employee with at least five (5) years but less than fifteen (15) years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay for a period beyond the effective date of the demotion as follows:

Years of Service	Months of Compensation Retention
5	12
6	14
7	16
8	18
9	20
10	22
11	24
12	26
13	28
14	30

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

c. The basic rate of pay of a regular Employee with less than five (5) years of continuous service in the civil service of the Employee's governmental jurisdiction, or a regular Employee whose retention period as prescribed in clause b., has expired, shall be adjusted in the manner of adjustments for service connected disability demotion, provided the Employee shall not be entitled to temporary differential.

#### 5. Voluntary Demotion.

a. A regular Employee who accepts a voluntary demotion shall be compensated as follows:

1) For voluntary demotions involving a movement of three (3) or less pay ranges, the Employee shall be compensated at the corresponding step in the lower pay range.

2) For voluntary demotions involving a movement of more than three (3) pay ranges, the Employee shall be compensated at the step in the lower pay range which is equal to the rate for voluntary demotions involving three (3) pay ranges. If such rate falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step of the lower pay range.

b. Upon return to the position in which an Employee last held a permanent appointment, a regular Employee who is demoted on a temporary appointment basis or who is released from a new probationary appointment following a demotion shall be compensated as though the Employee had remained in the former position continuously.

D. Compensation Adjustment Upon Transfer.

1. "Transfer" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position which is in the same class or in a different class assigned to the same pay range in the salary schedule.

2. A regular Employee who is transferred shall continue at the same basic rate of pay.

E. Compensation Adjustment Upon Reallocation.

1. The following definitions shall be applicable to this paragraph:

a. "Reallocation downward" means the reallocation of a position to a class assigned to a lower pay range in the salary schedule.

b. "Reallocation upward" means the reallocation of a position to a class assigned to a higher pay range in the salary schedule.

2. Compensation following reallocation upwards shall be adjusted in the manner as adjustments for promotion.

3. Compensation adjustment for a reallocation downwards shall be in the manner prescribed in paragraph C.3. However, when downward reallocations are due to disciplinary, involuntary, or voluntary reasons, the Employee's basic rate of pay shall be adjusted in the manner as adjustments for disciplinary, involuntary, or voluntary demotions, as applicable.

4. Compensation following reallocation of a position in a class to the same pay range shall be adjusted in the manner of adjustments for transfer.

5. Upon return to the original classification of the Employee's position after a temporary reallocation upward, the Employee shall be compensated at the rate the Employee would have received were it not for the temporary reallocation.

F. Compensation Adjustment Upon Repricing.

1. The basic rate of pay of an Employee whose position is in a class which is repriced to a higher pay range shall be adjusted in the manner as adjustments for promotion.

2. The basic rate of pay of an Employee whose position is in a class which is repriced to a lower pay range shall be adjusted in the manner as adjustments are prescribed in paragraph C.3.

G. Compensation of Employees Selected from an Open Competitive List Resulting from a Recruitment Above the Minimum.

Notwithstanding any paragraph in this Article, Employees selected through an open competitive recruitment which permits hiring above the first step may be compensated at a rate determined by the Employer upon their appointment from the open competitive list; provided that the amount the Employee will receive is not less than the amount the Employee would have received if the Employees were compensated in accordance with the applicable paragraph.

H. Compensation for Temporary Assignment Performed.

Compensation for temporary assignment shall be as follows:

1. Except as provided in subparagraph 6., the basic rate of an Employee who performs temporary assignment involving a position assigned to a class in a higher pay range in the salary schedule shall be adjusted in the manner as adjustments for promotion except that any temporary differential which the Employee was receiving shall not be added to the basic rate of pay but shall be retained by the Employee while performing the temporary assignment.

2. An Employee who performs a temporary assignment involving a position assigned to the same or lower pay range in the salary schedule shall continue to be compensated at the Employee's basic rate of pay prior to the temporary assignment.

3. Whenever a temporary assignment involves the assumption of duties and responsibilities of an exempt position not assigned to a salary range (regardless of whether the exempt position is within the bargaining unit or outside of the bargaining unit), Employees will be compensated at the prescribed statutory rate of pay if such rate is higher than the Employee's existing basic rate of pay. If there is no prescribed statutory rate, the appointing authority may exercise discretion in setting compensation for temporary assignment; provided, the compensation shall be no less than the Employee's basic rate of pay.

4. Whenever a temporary assignment is made for an exempt Employee whose position is not assigned to the salary schedule, and whose temporary assignment involves the assumption of the significant duties and responsibilities of a position assigned to a salary schedule outside of the bargaining unit, the following will be used to determine whether the assignment is to a higher pay range:

The maximum rate for the class to which temporary assignment is made is higher than the Employee's existing rate; provided, the dollar difference between the two (2) is more than five percent (5%) of the Employee's existing basic rate of pay.

If the temporary assignment is to a position in a higher pay range, as determined above, the Employee will be compensated at that step in the higher pay range which exceeds the Employee's existing rate by five percent (5%). If there is no step in the higher pay range which rate exceeds the Employee's basic rate of pay by at least five percent (5%), the Employee shall be compensated at the maximum step in the higher pay range or at the Employee's basic rate of compensation, whichever is greater.

If the temporary assignment does not involve a higher pay range as determined above, the Employee shall be compensated pursuant to subparagraph 2.

5. Whenever a temporary assignment involves the assumption of the duties and responsibilities of a position in the Excluded Managerial Compensation Plan (EMCP), such assignment shall be compensated in accordance with the provisions that are applicable to Excluded Managerial (EM) Employees.

If the temporary assignment does not involve a higher pay range as determined above, the Employee shall be compensated pursuant to subparagraph 2.

6. Compensation adjustments shall not be provided for the following:

a. An Employee whose position includes assuming the duties and responsibilities of the Employee's superior in the absence of the superior and which assignment is recognized in the Employee's position classification and pricing.

b. An Employee who performs duties in accordance with the terms of a formal training agreement entered into with the Employee's department head and approved by the director.

I. Temporary Differential Pay.

1. An Employee shall be eligible for temporary differential pay as may be provided in this Article. The amount of TD pay shall be the difference between the Employee's basic rate of pay prior to the action taken and the Employee's new basic rate of pay.

2. The TD pay shall not be considered part of an Employee's basic rate of pay.

3. The TD pay shall be reduced by an amount equal to any adjustment in the Employee's basic rate of pay due to promotion, upward reallocation, or repricing upward actions. When the adjustment due to these actions is greater than or equal to the TD pay, the TD pay shall be terminated.

4. When an Employee with TD pay is demoted or transferred, or whose position is reallocated to a class in the same or lower pay range, the TD shall be continued in the new pay range.

J. Compensation Adjustment for Non-Regular Employees.

1. Movements of non-regular Employees to other civil service positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as prescribed in this paragraph.

2. A non-regular Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

3. A non-regular Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same salary range and salary schedule and in the same department shall continue at the same basic rate of pay.

4. Non-regular Employees serving temporary appointments who are converted to initial probational or permanent appointments in the same positions that the Employees were serving temporary appointments will continue to receive the same basic rate of pay they were receiving while serving temporary appointment.

5. Non-regular full supervisory Employees with at least one (1) year of continuous service who move to other civil service positions shall have their compensation adjusted as though they were promoted, demoted or transferred.

6. The compensation of a non-regular Employee after a personnel transaction other than as described in subparagraphs 2, 3, 4, and 5 shall be at the initial step of the salary range.

K. Compensation Adjustment for Exempt Employees Accepting Civil Service Appointments, or Whose Exempt Positions are Converted to Civil Service Positions.

1. Exempt Employees who move to civil service positions or who are granted civil service status pursuant to legislation shall not have the transaction considered as promotions, transfers, or demotions. Such transactions shall be considered new appointments and pay adjustments upon these new appointments shall be as prescribed in this paragraph.

2. An exempt Employee who is granted civil service status pursuant to legislation shall retain the basic rate of pay the Employee was receiving immediately prior to being granted civil service status; provided:

a. If the Employee's rate of pay falls between two (2) steps in the salary schedule, the Employee shall be compensated at the lower step.

b. If the Employee's rate of pay falls below the minimum step of the salary schedule, the Employee shall be compensated at the minimum step.

c. If the Employee's rate of pay falls above the maximum step of the salary schedule, the Employee shall be compensated at the maximum step.

3. Exempt Employees selected from an open competitive list to civil service positions other than as described in subparagraph 1., shall be compensated at the initial step of the salary range.

L. Compensation Adjustment for Employees Moving to Exempt Appointments.

Movements of Employees to exempt positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as follows:

1. The Employee shall be compensated at the prescribed statutory rate for the exempt position; or,
2. If there is no prescribed statutory rate, then the rate determined by the appointing authority.

M. Compensation Adjustments for Regular Employees Serving Limited Term Appointments, Temporary Appointments, or New Probational Appointments, in Another Position.

1. Regular Employees serving limited term appointments, temporary appointments, or new probational appointments, who are promoted, transferred, or demoted, or whose permanent position is reallocated or repriced shall have their compensation adjusted from their permanent positions pursuant to paragraphs B, C, D, E, or F, as applicable, except as follows:

a. An Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

b. An Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same class and in the same department shall continue at the same basic rate of pay.

2. Regular Employees serving limited term or other temporary appointments who are converted to probational or permanent appointments in the same positions that they were serving on a limited term or other temporary appointment basis shall continue to receive the same basic rate of pay they were receiving while serving the limited term or temporary appointment.

N. Compensation Adjustments Following an Intergovernmental Movement Made Pursuant to Law.

When an intergovernmental movement has been made pursuant to law, the compensation of the regular Employee involved shall be adjusted as follows:

1. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a higher pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for promotion.

2. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with the same pay range in the salary schedule as the previous pay range, the Employee's compensation shall be adjusted in the manner of adjustments for transfer.

3. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a lower pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for voluntary demotion.

O. Step Movements.

1. All step movement costs under this paragraph shall be included in the costs of collective bargaining and submitted to the respective legislative bodies for approval at the appropriate time.

2. The following definitions shall be applicable to this paragraph:

a. "Step movement" means the movement of an Employee to the next step within the same pay range which rate immediately exceeds the Employee's basic rate of pay.

b. "Step movement date" means the date the Employee is to be granted a step movement after rendering the minimum number of years of creditable service.

3. In determining creditable service for step movement, the following shall apply:

a. "Service" means:

1) For employees who become excluded from bargaining unit 14 on February 22, 2016 as a result of Act 137, SLH 2013; employment service on a step in any Employer jurisdiction in an existing or former position which is or has been included in bargaining unit 3 or 4 prior to February 22, 2016 or bargaining unit 14 on or after February 22, 2016 or which would have been included in bargaining unit 3 or 4 or 14 were it not excluded therefrom, provided there is no break in service.

2) For employees who enter or re-enter a position excluded from bargaining unit 14 after February 22, 2016, employment service on a step in any Employer jurisdiction in an existing or former position which is or has been included in bargaining unit 14 or which would have been included in bargaining unit 14 were it not excluded therefrom, provided there is no break in service.

b. "Break in service," for purposes of this paragraph, means a separation from service or a movement out of the bargaining unit; provided that a new appointment within the bargaining unit on the next consecutive work day shall not constitute a break in service.

c. Service throughout a work year shall be creditable for a step movement provided that the following shall be considered time not creditable:

1) absences without pay, except as provided in subparagraph 3.d. below;

2) absences due to suspension; or

3) any period of substandard performance.

d. A period of authorized leave without pay for the following purposes shall be construed as creditable service:

1) to be on sabbatical leave;

2) to recuperate from an injury for which workers' compensation weekly payments are made, or

3) to be on military service where the President of the United States or the governor of the State has called the Employee to active duty.

4. Determining Step Movement Date.

a. Subject to adjustment for all periods of time not creditable as provided in subparagraph 3.c., the step movement date shall be determined as follows:

1) For Employees who move to excluded bargaining unit 14 on February 22, 2016, as a result of Act 137, SLH 2014; the step movement date shall be determined by the Employee's step movement date in the excluded bargaining unit 03 or excluded bargaining unit 04 on February 21, 2016.

2) For Employees who enter or re-enter a position in the excluded bargaining unit after February 22, 2016, the step movement date shall be determined by the date the Employee initially entered or re-entered a position in the excluded bargaining unit.

b. The Employee's step movement date determined under 4.a. shall not be adjusted upon movement to another position in the bargaining unit without a break in service, regardless of Employer jurisdiction.

5. Eligibility for Step Movement.

a. Any Employee who is at a step or rate below the maximum step of the pay range shall be eligible for and shall receive a step movement on the Employee's step movement date, provided the Employee has completed the minimum number of years of satisfactory creditable service required for advancement to the next higher step.

1) Effective February 22, 2016, the minimum number of years of satisfactory creditable service required for advancement to the next higher step shall be as specified in the following:

Existing Step	Minimum No. of Years of Creditable Service at Existing Step Before Movements to Next Step
A	1
B	1
C	2

D	3
E	3
F	3
G	3
H	3
I	3
J	3
K	3
L	3

2) Effective July 1, 2016, the minimum number of years of satisfactory creditable service required for advancement to the next higher step shall be as specified in the following:

Existing Step	Minimum No. of Years of Creditable Service at Existing Step Before Movements to Next Step
A	3
B	3
C	3
D	3
E	3
F	3
G	3
H	3
I	3
J	3
K	3

b. The Employee shall not be entitled to receive a step movement on a date earlier than the Employee's step movement date and any time earned in excess of the minimum time required for the step movement is voided upon movement to the next higher step in the same pay range.

6. Effect of Personnel Actions.

a. Promotion, Demotion, Reallocation or Repricing

Notwithstanding subparagraph 5 above, an Employee who is promoted, demoted or whose position is reallocated or repriced to another pay range shall be credited with time earned in the former pay range or pay ranges toward eligibility for a step movement in the new pay range.

b. Transfer or Reallocation to a Class at Same Pay Range

An Employee who is transferred or whose position is reallocated to a class in the same pay range shall not lose time earned toward eligibility for a step movement increase.

c. Return to Position Following Release from Limited Term, or New Probationary Appointment

An Employee who returns to the Employee's permanent position following release from a limited term or new probationary appointment, whether from a position within the bargaining unit or from a position outside the bargaining unit, shall be credited with service rendered as though the Employee had remained in the former position continuously.

P. Other Compensation Adjustments.

Compensation adjustments not expressly provided for by this document but necessitated by authorized personnel movements or situations shall be made by the chief personnel or human resources executive, as applicable.

## ARTICLE 15 – PERSONNEL FILE

A. An Employee shall, upon request and by appointment, be permitted to examine the Employee's personnel files. The Employee shall be given a copy of any material if it is to be used in connection with an appeal or personnel hearing.

B. No derogatory material shall be placed in the Employee's personnel file unless the Employee has had an opportunity to read the material and an opportunity to sign it indicating the Employee had read the material. The Employee shall also be given an opportunity to attach explanatory remarks.

C. Upon request of the Employee, derogatory material in the Employee's file shall be destroyed after two (2) years, unless the department head makes a determination of the current relevancy of such material. If the Employee disputes the relevancy of such material, the department head shall attach reasons for relevancy to such material in writing. The Employee may again request destruction of such material after one (1) year.

D. All derogatory material shall be destroyed after five (5) years.

E. The employment history record shall not be destroyed.

F. The Employer may maintain more than one personnel file; however, one of these files shall include, but not be limited to, an Employee's personnel transaction records, derogatory materials, commendatory materials and performance evaluations.

## ARTICLE 16 – PERSONAL RIGHTS AND REPRESENTATION

A. The Employer shall not require Employees to transport government equipment in their private vehicles, if such Employees do not receive mileage allowance.

B. *RESERVED*

C. Employees shall not use their business addresses (place of employment) to receive personal mail; provided, however, if personal mail is sent to Employees' business addresses without their knowledge or consent, the Employer shall endeavor to forward such personal mail unopened.

D. The Employer shall provide Employees with supplies and equipment which are required in the performance of the Employee's official duties. Except in the case of negligence on the part of the Employee, when such equipment is stolen, lost, damaged and/or worn out it shall be repaired or replaced by the Employer.

E. The Employer shall provide legal counsel for an Employee upon request when:

1. The Employee is sued for actions taken in the course of employment and within the scope of the Employee's duties and responsibilities.

2. The Employee must appear as a defendant or is subpoenaed to appear in court when sued for actions taken in the course of employment and within the scope of the Employee's duties and responsibilities.

3. The Employee must appear as a witness or is subpoenaed to appear in court on a matter arising in the course of employment and within the scope of the Employee's duties and responsibilities.

4. The Employee is required to give deposition or answer interrogatories on a matter arising in the course of employment and within the scope of the Employee's duties and responsibilities.

In addition, the Employee's required presence in any of the foregoing situations shall be considered work time, provided, whenever an Employee's required presence is on the Employee's scheduled day off or holiday off, the Employee shall be guaranteed a minimum of three (3) hours straight time pay.

F. When appeals are filed against Employees of this unit for actions taken by them in the course of their employment and within the scope of their supervisory and/or managerial duties and responsibilities, the Employer shall provide them with necessary staff support and representation. When such assistance is requested by the Employee and the Employer fails to furnish such assistance, the Employee will not be penalized for any improper action taken.

G. The Employer shall provide Employees with advice and assistance in the interpretation and administration of collective bargaining contracts or agreements covering their subordinates. Whenever Employees perform or carry out their assigned supervisory and/or managerial duties and responsibilities, based on such advice and assistance, the Employer agrees to provide full support to the Employees should conflict or grievances arise.

H. The Employee shall have the right to refuse for good cause as determined by the Employer to work overtime, to accept a temporary assignment, and to perform any work not representative of the Employee's class.

I. If a judgment or court approved settlement is made against an Employee in a civil suit for actions taken in the course of employment and within the scope of the Employee's duties and responsibilities, the Employer agrees to do no more than submit to the Legislature or the County Council any judgment (or court approved settlement) against the Employee, with the Employer retaining the discretion of recommending or not recommending legislative approval.

J. Bill of Rights.

1. No Employee shall be required to sign a statement of complaint filed against the Employee.

2. If the Employer pursues an investigation based on such complaint, the Employee shall be advised of the seriousness of the complaint. The Employee will be informed of the complaint, and will be afforded an opportunity to respond to the complaint, and to furnish evidence in support of the Employee's case.

3. Before making a final decision, the Employer shall review and consider all available evidence and data, including factors supporting the Employee's position, whether or not the Employee offers such factors in the Employee's own defense.

4. If the complaint filed against the Employee results in disciplinary action, and the Employee believes that the action taken is improper or unjust, the Employee shall have the right to process an appeal pursuant to Article 10, Appeal Procedure.

#### **ARTICLE 17 – TECHNOLOGICAL CHANGES**

A. The Employer recognizes that changes in operations resulting from technological innovations may occur. When such changes occur, the Employer shall give first consideration to the utilization of affected Employees in the changed operations. In the event the affected Employees do not possess the requisite skills or knowledge to perform the required work in the new operation and such skills and knowledge can be acquired within a reasonable length of time, the Employer shall provide the necessary training to Employees during working hours and at the Employer's expense.

B. If the job of any Employee is eliminated because of the implementation of new technological innovations, the Employer shall, in the following order of priority: 1) place the Employee in a position comparable in level to the Employee's original position; 2) place the Employee in a lower level position, provided that the Employee shall retain the Employee's existing rate of compensation so long as the Employee remains in the position, or 3) follow the procedure under Article 9, Reduction-In-Force.

C. Any Employee affected by this Article shall be required to meet the minimum qualification requirements for the class in which the Employee may be placed.

#### **ARTICLE 18 – TRAINING AND DEVELOPMENT**

A. *RESERVED*

B. All training and development which the Employer requires of an Employee shall be conducted during working hours. When such training or development falls outside of the Employee's normal work hours, the Employee's normal work hours may be adjusted so as to accommodate the time spent in training or development. The adjustment in work hours shall not be construed to be working a split shift.

C. A regular Employee shall be permitted to request attendance in a training program, course of instruction, conferences or seminars and the Employer shall approve such a request if the following conditions are met:

1. The training program, course of instruction, conferences or seminars meets the approval of the Employer, is related to the Employee's job, and will improve the Employee's skills to meet the needs of the Employer.

2. Attendance in the training program, course of instruction, conferences or seminars will not disrupt the normal operations of the Employer.

3. Funds are available.

4. Upon satisfactory completion of courses of instruction or training programs approved by the Employer, the Employer shall reimburse the Employee for the cost of tuition, books, and supplies, as applicable, provided any textbooks paid for by the government shall remain its property.

5. Due consideration has been given to other candidates to attend the training program, course of instruction, conference or seminar.

D. The Employer shall inform affected Employees of new work procedures which relate directly to their work.

E. Subject to the conditions of paragraphs C.1. and C.2. above, and if sufficient funds are not available, the Employee may be permitted to participate at the Employee's own expense in training programs or courses of instruction which are scheduled during working hours with the prior approval of the Employer or designated representatives.

F. The Employer shall provide in-service training programs.

G. Evidence of satisfactory completion of any training courses or programs shall be placed in the Employee's personnel file and may be used as a factor in giving consideration in the Employee's future promotion; however, said consideration shall not be construed as affording the Employee precedence or preference over other Employees who have demonstrated greater job proficiency or have greater experience.

H. The Employer shall provide a regularly scheduled preretirement advisory program covering benefits and rights of retired Employees. Those Employees who are contemplating retirement may attend this program.

I. Whenever an Employee applies for and is denied training, the Employee shall upon written request be informed of the reasons for denial in writing.

## **ARTICLE 19 – SAFETY AND HEALTH**

A. **Safety and Health Requirements.** The Employer shall conform to and comply with applicable regulations requiring safe, healthy, and sanitary working conditions prescribed by the Department of Health, Department of Labor, or any other governmental body. In addition, the Employer shall insure compliance with the applicable provisions of the Hawai'i Occupational Safety and Health Law, Act 57, SLH, 1972. The Employer shall provide, among other things:

1. When feasible in the renovation or construction of government buildings, the Employer shall endeavor to include in the specifications, provisions to provide, but not limited to the following: air conditioning; cold water fountains; restrooms for Employees separate from public restrooms; areas for meals.

2. When adequate lighting is essential to the performance of a specific function, the Employer shall provide necessary lighting equipment.

**B. Protective Clothing and Safety Equipment and Tools.**

1. Whenever the Employer requires that Employees wear protective clothing or use safety equipment and tools, the Employer shall provide and replace such items.

2. When an Employee performs work requiring the use of protective clothing and the Employee's garment is damaged because the protective clothing is inadequate, the Employer shall be responsible for reimbursing the reasonable value of the garment. The reasonable value shall be mutually agreed upon by the department head or designee and the affected Employee. Whenever such damage occurs, it shall be reported immediately to the Employee's supervisor.

3. Each Employee whose duties require protective shoes as provided under this section shall be provided with a second pair of such shoes when all of the following conditions are met:

a. Such shoes become wet frequently and on a regular basis such as a result of the Employee's duties.

b. Wetness results from water or muddy conditions.

c. Wetness which saturates the shoes will occur in spite of reasonable precautions and preventive measures.

d. Rubber boots when provided are not reasonable to wear (1) due to the nature of the work or (2) for more than four hours per work day.

**C. Working Conditions.**

1. Sanitary toilet facilities will be provided.

2. Clean, cool, potable drinking water shall be made accessible.

3. All office and work areas shall be provided with natural or mechanical systems of ventilation.

D. The Employer shall endeavor to provide security and protection for public Employees in offices where there have been experiences of frequent threats or violence.

**ARTICLE 20 – REST PERIODS AND LUNCH PERIOD**

A. All Employees shall be allowed rest periods of ten (10) minutes during each half of the workday or work shift and before each two (2) hours of continuous overtime work performed after completing a regular workday or work shift of eight (8) hours. The times and locations at which rest periods shall be taken are to be determined by the department head or a designee of the department head after giving due consideration to the desires of the Employees and the requirements of the department.

B. All Employees shall be allowed a lunch period not exceeding forty-five (45) minutes. Such lunch period shall not constitute working time.

## ARTICLE 21 – SHIFT WORK

A. The work schedules for Employees who are required to work on scheduled shifts shall be prepared in consultation with the Employees and prominently posted at least two (2) weeks in advance so that the Employees affected will be informed. Such schedules shall be for no less than two-week (2) periods and shall not be changed except for good cause and provided the affected Employee is given at least forty-eight (48) hours prior notice. Whenever possible, work schedules shall: 1) permit an Employee to enjoy a holiday on the day it is observed; 2) provide an Employee with two (2) consecutive days off; and 3) provide for an equitable system allowing Employees equal number of weekends off.

B. The definition of shift shall be in accordance with Article 22, Overtime, paragraph L.1.

## ARTICLE 22 – OVERTIME

A. Coverage: Credit for Overtime Work. Employees are entitled to receive cash payment or compensatory time credit because of overtime work.

B. Occurrence of Overtime Work. Overtime work occurs when an Employee renders service at the direction of proper authority and if the performance of such service is:

1. In excess of a scheduled eight (8) hour workday.
2. In excess of forty (40) straight-time hours per workweek.
3. On any day which is observed as a legal holiday; whenever the major portion of a shift falls on a day observed as a legal holiday, work performed during the entire eight (8) hour shift shall constitute overtime work provided that no further credit because of the overtime work shall be granted notwithstanding any other provision of this Article.
4. On the Employee's scheduled day off and there has been no change, by mutual consent (or by due prior notice), in the work schedule.
5. In operating units subject to shift work when an Employee is required to report to a new shift with less than a lapse of twelve (12) hours of rest, the Employee shall continue to earn overtime until such a rest period is granted.
6. In accordance with specific conditions stipulated by this document.
7. If work schedules are not posted two (2) weeks in advance pursuant to paragraph A of Article 21, Shift Work, Employees affected shall be credited for overtime work for each hour of work performed on the first day of such new schedule.
8. In operating units rendering public service seven (7) days per week, whenever an Employee whose work is subject to shifts is required to render full-time service for more than six (6) consecutive days, the Employee shall be entitled to overtime for each hour of work

performed on the seventh day and each succeeding day until the Employee is granted a period of rest for twenty-four (24) non-work hours.

9. Whenever an Employee is required to perform overtime work within the sixteen (16) hour period immediately prior to the start of the Employee's scheduled workday and does not receive at least a total of ten (10) hours of rest within such sixteen (16) hour period, the Employee shall be entitled to overtime credits to be applied to the straight-time hours actually worked on such scheduled workday which shall be equal to the difference between the ten (10) hours and the number of actual hours of rest received.

C. Additions and exceptions to the above provisions are as follows:

1. Occurrence of overtime work with respect to official leave with pay or compensatory time--any official leave with pay or compensatory time credits which have been actually taken by an Employee shall be included in computing whether an Employee has worked in excess of eight (8) hours in a day or forty (40) hours in a week.

2. Whenever an Employee is required, with less than forty-eight (48) hours advance notice, to report for work on a workday or a shift for which the Employee was not officially scheduled, the Employee shall be credited for overtime work for each hour of work performed on the first workday of such new scheduled day or shift.

3. Exchange for Perquisites. An Employee who by agreement receives perquisites or accommodations in exchange for rendering standby or emergency duty in excess of the Employee's normal hours of work:

a. Will not earn overtime for rendering scheduled standby duty;

b. Will not earn overtime when called to perform emergency service during the Employee's scheduled hours of standby duty;

c. Will earn overtime for each hour of work when called to emergency duty on the Employee's scheduled day off.

D. Conversion to Compensatory Time Credit. The number of actual hours of overtime worked shall be converted to compensatory time credit at the rate of one and one-half (1 1/2) hours of compensatory time credit for each hour of overtime worked or fraction thereof computed to the nearest fifteen (15) minutes except as provided in Article 26, relating to Call Back Pay.

E. Compensatory Time Off. An Employee who has compensatory time credit shall be scheduled for compensatory time off as mutually agreed to with the Employee's appointing authority.

F. An Employee on compensatory time off shall be deemed to be on official leave with pay status.

G. An Employee who notifies the department head in advance or substantiates to the satisfaction of the department head that the Employee was sick on a scheduled day of compensatory time off, shall be charged only for sick leave.

H. Compensation for Overtime Work. The provisions of this Article in regard to payment in cash shall be applicable in all cases except where the Employee who has performed the overtime work elects, in writing, to take compensatory time off in lieu of cash; provided that the number of hours of compensatory time credits that an Employee may accumulate shall not exceed two hundred forty (240) hours. For an Employee whose balance exceeds two hundred forty (240) hours as of July 1, 2007, the Employer and the Employee shall mutually agree on a methodology to reduce the balance to two hundred forty (240) hours, including a timetable for such reduction.

I. Cash Payment for Overtime Worked.

1. The basic compensation for an Employee who performs overtime work shall include all differentials an Employee is receiving when performing overtime work, except for hazard pay differentials. To convert an Employee's basic compensation to an hourly rate, the following formula shall be used: (monthly salary plus the amount of monthly differentials) multiplied by 12 months then divided by 2,080 hours; plus any hourly differentials the Employee is earning.

2. Cash payment for overtime work shall be calculated as follows: (basic rate of pay plus differentials as determined in I.1.) multiplied by the number of hours worked or fraction thereof computed to the nearest fifteen (15) minutes multiplied again by one and one-half. (E.g.  $\$15.00 + .31 \times 8$  hours of overtime work  $\times 1-1/2 = \$183.72$ )

3. Cash payment for overtime work shall be made within thirty (30) days (approximately two (2) pay periods) from the date the Employee submits the appropriate Employer form for overtime payment.

J. At the time of termination or resignation from service, the Employee shall be paid in cash for all compensatory time credit earned but not yet taken as compensatory time off.

K. Mutual Agreement. A Mutual Agreement in writing may be entered into between the Employee and the Employer. Through such an Agreement, the limitation of Article 22, Overtime, may be modified.

L. Definitions. The following definitions are specifically intended to clarify the intent of this Article.

1. Workday or shift. The term "workday" or "shift" is defined as a period of eight (8) hours during which a full-time Employee is scheduled to perform a normal day's work. For scheduling purposes, a workday or shift may begin on one day and end on the next day.

2. Work subject to shifts or shift work. The term "work subject to shifts" or "shift work" is defined as a work operation in which there is more than one workday or shift in a calendar day. Flexible or staggered working hours shall not be considered in determining whether more than one such workday occurs in a calendar day.

3. Pre-shift. The term "pre-shift" is defined as that period of time immediately preceding a workday.

4. Post-shift. The term "post-shift" is defined as that period of time immediately following a workday.

## **ARTICLE 23 – TIME OFF FOR OVERTIME WORKED**

Whenever a non-shift Employee works at least eighteen (18) hours within the twenty-four (24) hour period immediately prior to the start of the Employee's scheduled workday, the Employer shall excuse the Employee from work on such workday, with pay, unless the services of such Employee are needed due to an emergency affecting the public health or safety and replacements are not available. In the event of such an emergency, such Employee shall be excused from work as soon as possible when the emergency no longer exists.

## **ARTICLE 24 – MEALS**

A. When Employees are required to work overtime, the Employer shall either furnish them with meals or compensate them for meals at the rate of six dollars (\$6.00) for breakfast, eight dollars (\$8.00) for lunch and ten dollars (\$10.00) for dinner under the following situations:

1. **Post-Shift Overtime.** Employees who perform overtime work after their normal workday shall be furnished or compensated for a meal after the first two (2) hours of actual overtime work performed and after intervals of five (5) hours following the first overtime meal.

2. **Two or More Hours of Pre-Shift Overtime.** When Employees are called to perform two (2) or more hours of pre-shift overtime work and are required to work continuously into their normal workday, they shall be entitled to meals for the period of the overtime work as well as their normal workday. Employees shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous work performed following the first meal.

3. **Less than Two Hours of Pre-Shift Overtime.** When Employees are required to work less than two (2) hours of pre-shift overtime with less than twenty-four (24) hours prior notice and works continuously into the Employees' normal workday, they shall be furnished or compensated for a meal at the start of their normal workday and at their normal meal period during the workday.

4. **Overtime During Off-Duty Hours, Scheduled Day Off or Holiday.**

a. **Less Than 24 Hours Prior Notice.** When Employees are required to work overtime during their off-duty hours (not post-shift or pre-shift), on a scheduled day off or a holiday, with less than twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous overtime work performed following the first overtime meal. However, an Employee shall not be entitled to a meal after two (2) hours of overtime work if the overtime work commences within three (3) hours of a previous overtime meal. In such event, the Employee shall be granted a meal after a period of five (5) hours from the previous meal should the Employee continue working till this time, and shall be entitled to additional meals at intervals of five (5) hours of continuous overtime work thereafter.

b. **24 Hours or More Prior Notice.** When Employees are required to work overtime during the Employees' off-duty hours (not post-shift or pre-shift), on a scheduled

day off or a holiday with at least twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of ten (10) hours of such overtime work and at intervals of five (5) hours of overtime work performed following the first overtime meal.

5. Overtime While on Standby. When Employees render service in response to a call to work as provided under Article 25, Standby Pay, they shall be furnished or compensated for a meal upon completion of two (2) hours of work and at intervals of five (5) hours of continuous work performed following the first meal. However, an Employee shall not be entitled to a meal after two (2) hours of overtime work if the overtime work commences within three (3) hours of a previous overtime meal. In such event, the Employee shall be granted a meal after a period of five (5) hours from the previous meal should the Employee continue working till this time, and shall be entitled to additional meals at intervals of five (5) hours of continuous overtime work thereafter.

B. Notwithstanding paragraph A, an Employee who is required to travel inter-state or intra-state on official business and who receives a travel allowance pursuant to Article 46, Travel, shall be furnished or compensated at the rate of ten dollars (\$10.00) for a dinner meal after performing seven (7) hours of overtime work.

C. For purposes of meal compensation, the following shall apply:

1. Breakfast shall mean any meal allowed an Employee from 3:00 a.m. to 9:00 a.m.
2. Lunch shall mean any meal allowed an Employee after 9:00 a.m. to 3:00 p.m.
3. Dinner shall mean any meal allowed an Employee after 3:00 p.m. but before 3:00 a.m.

D. The Employer shall compensate Employees for meals within thirty (30) days (approximately two pay periods) from the date on which the claim for compensation is filed with the respective disbursing officer.

E. The term "pre-shift" is defined as that period of time immediately preceding a workday.

The term "post-shift" is defined as that period of time immediately following a workday.

## **ARTICLE 25 – STANDBY PAY**

A. An Employee shall be deemed to be on standby duty when assigned by the head of the department or other superior to remain at home or at any other designated place for a specific period for the purpose of responding to calls for immediate service after the Employee's normal hours of work, on the Employee's scheduled day off or on holidays. For each calendar day or portion thereof of standby duty, the Employee shall be paid an additional amount equal to twenty-five percent (25%) of the Employee's daily rate.

B. Whenever it is necessary for an Employee on standby duty to render immediate service in response to a call to work, the Employee shall be entitled to further compensation as provided in the Call Back Pay provision contained herein.

C. Employees who are provided pagers and/or cellular telephones in lieu of remaining at home for the purpose of responding to calls for immediate service shall be entitled to standby pay after the Employee's normal hours of work, on the Employee's scheduled day off or on holidays with the following conditions:

1. The Employee has written authorization by the Employer that the Employee is on standby duty.
2. The Employee shall respond to a call for immediate service within the same period as if the Employee remained at home.
3. The Employee remains in a geographic location where the Employee can receive a pager or cellular call and responds to a call for immediate service.

#### **ARTICLE 26 – CALL BACK PAY**

A. Whenever an Employee is called back to work after the completion of the Employee's workday and is released from the call back work before the start of the Employee's next regular consecutive workday, the Employee shall be credited with either:

1. A minimum of three (3) hours regular pay, calculated from the time the Employee leaves home and until the Employee returns home from work, or
2. Overtime work calculated from the time the Employee leaves home and until the Employee returns home, whichever is greater in value; provided, that overtime pay for work on holidays, days off and pre-shift overtime shall be in accordance with their respective articles.

B. An Employee may be permitted rest periods of ten (10) minutes for each two (2) hours of call back work performed.

C. An Employee interrupted by Employer-initiated consultative call(s) while the Employee is at home and on off-duty status shall not qualify for call back pay unless the Employee actually returns to the workplace. An Employee who is not on standby pay duty status shall be paid a minimum of one (1) hour straight time pay for one or more consultative calls within the same one-hour period, calculated from the onset of the first call and ending one hour later. The penalty for consultative calls shall be in lieu of any other compensation and shall not be subject to overtime provisions. For the purpose of this section, a consultative call shall mean an exchange of technical and/or procedural information to resolve a problem requiring immediate attention.

#### **ARTICLE 27 – SHOW-UP TIME AND REPORTING PAY**

A. Show-up time and reporting pay on normal scheduled workday. An Employee who reports to work but who is unable to perform the Employee's normal work because of inclement weather, breakdown or unavailability of equipment, or other conditions beyond the Employee's control, shall be credited with the Employee's normal day of work; provided, however, the Employee may be assigned to perform other work as determined by the Employer or the Employer's designee.

B. Show-up time and reporting pay on scheduled day off.

1. An Employee who is required and reports to work on the Employee's scheduled day off but who is unable to perform work because of inclement weather, breakdown, or unavailability of equipment, or other conditions beyond the Employee's control, shall be guaranteed a minimum of three (3) hours straight-time pay.

2. An Employee who is required and reports to work on the Employee's scheduled day off and performs less than two (2) hours of work shall be guaranteed a minimum of three (3) hours of straight-time pay.

#### **ARTICLE 28 – SPLIT SHIFT PAY**

A. The Employer recognizes that it is to the best interest of Employees that split shifts be minimized except in cases where the Employer's mission cannot be economically administered by standard scheduling methods.

B. When, however, an Employee is required to work on a split shift basis, the Employee shall be paid a differential of twenty-five cents (\$.25) per hour for each hour, or fraction over thirty (30) minutes of the Employee's workday and thirteen cents (\$.13) for each period of less than thirty (30) minutes of work.

C. Split Shift--A regular work shift, which may be less than eight (8) hours, in a day which is divided into two (2) portions by off duty periods other than meal time.

D. An Employee who works a split shift will earn overtime for each hour worked which exceeds ten (10) hours, exclusive of time for meals, calculated from the time the Employee starts and ends the Employee's workday. The Employee's basic compensation plus the split shift differential will be used in determining the cash payment for overtime work pursuant to Article 22, Overtime.

#### **ARTICLE 29 – NIGHT DIFFERENTIAL**

A. Whenever an Employee's scheduled straight-time hours, including holiday work, fall between the hours of six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid, in addition to the Employee's basic compensation, the amount of sixty cents (\$.60) per hour for each hour of actual work performed during such six (6:00) p.m. to six (6:00) a.m. hours; provided, however, if one-half (1/2) or more of the Employee's scheduled straight-time hours fall between six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid, in addition to the Employee's basic compensation, the amount of sixty cents (\$.60) per hour for each straight-time hour actually worked.

B. Whenever an Employee's overtime hours fall between the hours of six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid the night differential for each hour of actual overtime work performed during such six (6:00) p.m. to six (6:00) a.m. hours.

C. The Employee's basic compensation plus the night differential will be used in determining the cash payment for overtime work pursuant to Article 22, Overtime.

D. For the purpose of granting differential for work performed for a portion of an hour, the differential shall be thirty cents (\$.30) for work of one-half (1/2) hour or less, and sixty cents (\$.60) for work of more than one-half (1/2) hour.

### ARTICLE 30 – TEMPORARY HAZARD PAY

A. Award and Approval. Upon recommendation of a department head, the Personnel Director, shall grant hazard pay to Employees who are temporarily exposed to unusually hazardous working conditions and where the following conditions are met :

1. The exposure to unusually hazardous working conditions is temporary;
2. The degree of hazard is "Most Severe" or "Severe"; and
3. The unusually hazardous working conditions have not been considered in the assignment of the class to a salary range.

B. Hazard Pay Differentials. Hazard pay differentials shall be based on the minimum step of the Employee's salary range and shall be prorated as follows:

1. Most Severe--twenty-five percent (25%).
  - a. Exposure likely to result in serious incapacitation, long period of time lost, or possible loss of life.
  - b. Accidents occur frequently in spite of reasonable safety precautions.
  - c. Frequent exposure to hazard where failure to exercise extreme care and judgment might cause an accident which would result in total disability or fatality.
2. Severe--fifteen percent (15%).
  - a. Frequent injuries likely but serious accidents rare.
  - b. Exposure leads to possible eye injuries, loss of fingers, or serious burns.
  - c. Might cause incapacitation.
  - d. Moderate periods of compensable lost time result.
3. Any disagreement on the granting of Temporary Hazard Pay or the differential granted shall be subject to Article 10, Appeal Procedure.

C. Computing Hazard Pay. The basic unit for computing such payments shall be the hour provided that:

1. A fraction of an hour shall be considered an hour;

2. A half day's pay at hazard rates shall be allowed for one (1) or more but less than four (4) hours of hazard work per day;

3. A full day's pay at hazard rates shall be allowed for four (4) or more hours of hazard work per day; and

4. This pay is in addition to any other rate that may apply to the job.

D. Duration of Hazard Pay Award. Such hazard pay award shall remain in effect for a period not to exceed six (6) months but may be renewed by the Personnel Director or the Director's designated representative upon showing by the department head that the working conditions and duties remain the same.

E. Forms and Other Requirements. Recommendations for hazard pay differentials shall be submitted on such forms and such manner as the Employer may require.

### ARTICLE 31 – DIFFERENTIALS

Effective July 1, 2016, State Law Enforcement Differentials shall be as follows:

A. Standard of Conduct Differential (SOCD)

1. Law Enforcement Officers who are subject to departmental Standards of Conduct whether on or off duty, 24 hours per day shall be paid a monthly SOCD due to these unique working conditions. All policies and/or practices of the Employer pertaining to Standards of Conduct existing on July 1, 2016 shall be continued.

2. The amount of the SOCD shall be one dollar and twenty-five cents (\$1.25) per hour effective July 1, 2016.

3. To facilitate the processing and payment of the SOCD the hourly rates are converted to monthly rates, to be paid semi-monthly with Employee salaries, according to the following conversion formula: SOCD hourly rate multiplied by 2080 hours (52 weeks x 40 hours) and divided by 12 months equals the monthly rate. (e.g.  $\$1.25 \times 2080 \text{ hours} / 12 \text{ months} = \$216.66/\text{month}$ )

4. The hourly SOCD shall be paid for each hour an Employee is in paid status (excluding overtime hours), to a maximum of 2080 hours per year.

5. The SOCD shall be in addition to the Employee's basic compensation and paid in the same manner as the Employee's regular salary. SOCD pay shall be treated in the same manner as salary in computing adjustments involving less than a full month's pay, but shall not be used for purposes of computing all types of premium pay and differentials nor shall it be affected by such premiums and differentials. The differential shall not be payable during periods of suspension of five (5) or more days or for periods when the Employee is on any leave of absence without pay.

6. The SOCD shall not be payable should a department's SOC be modified to exclude off-duty conduct.

7. Employees not subject to a departmental SOC that is inclusive of both on and off duty conduct, 24 hours per day, will not be eligible for SOCD pay.

B. Other Differentials

1. Employees will be entitled to the differentials listed in I.B.2. below because of the unusual or unique working conditions provided they meet all four of the following criteria:

a. the unusual or unique working condition has not already been recognized as a factor in assigning the Employee's class to a salary range; and

b. the Employee must hold the appropriate current certification, if required, to perform the function; and

c. the Employee's assignment must have the potential exposure to the hazard for which compensation is being paid; and

d. the Employer must assign the duty.

2. The following duties and amount of differential pay shall be granted as follows:

a. Aerial Observer Differential

An Employee who is required to perform official job duties while airborne in a helicopter shall be paid in addition to their basic compensation, a differential of five dollars (\$5.00) per hour for each hour of work performed while airborne in a helicopter.

b. Hostage Negotiator Differential

An Employee shall be paid in addition to their basic compensation, a differential of five dollars (\$5.00) per hour for each hour of work performed when assigned as the designated hostage negotiator.

c. Canine Decoys Differential

An Employee shall be paid in addition to their basic compensation, a differential of five dollars (\$5.00) per hour for each hour of work during canine bite training as the canine decoy.

d. Explosive Canine Handler Differential

An Employee shall be paid in addition to their basic compensation, a differential of one dollar (\$1.00) per hour for each hour of work performed when assigned to handle a canine seeking out explosives.

e. Canine Handlers Differential

1) An Employee shall be paid in addition to their basic compensation, a differential of one hundred and thirty-two dollars (\$132) per month (in addition to any amount paid as an explosive canine handler) for each month of work as a canine handler; and

2) The Employee shall be entitled to reasonable reimbursements for medical and health costs necessary for the animal in accordance with prior arrangement with the Employer, or at the option of the Employer, such medical and health services shall be provided by the Employer.

3. For the purpose of granting differential pay for a portion of an hour for an Employee covered by paragraphs I.B.2.a., b. and c., the Employee will be paid two dollars and fifty cents (\$2.50) for one-half (1/2) hour or less of work and five dollars (\$5.00) for more than one-half (1/2) hour of work.

4. For the purpose of granting differential pay for a portion of an hour for an Employee covered by paragraph I.B.2.d., the Employee will be paid fifty cents (\$.50) for one-half (1/2) hour or less of work and one dollar (\$1.00) for more than one-half (1/2) hour of work.

C. The Employer may terminate the differentials provided by this section upon reclassification of an affected Employee's position to a higher classification because of the unusual or unique working conditions which qualified the Employee for the differential or because such conditions cease to exist.

## **ARTICLE 32 – UNIFORMS AND EQUIPMENT**

### **A. General Application**

1. A uniform shall be defined as those items of distinctive clothing which are required by the Employer. All policies and/or practices of the Employer pertaining to uniforms and equipment existing on February 22, 2016 shall be continued. The Employer may amend its current uniform and equipment policies and/or practices.

### **2. Damaged or Lost Uniforms.**

a. If an Employee's uniform is destroyed or damaged while worn in the performance of duty and without negligence, the Employer shall either replace the item or items of uniform destroyed, or reimburse the Employee for the cost of the item or items of uniform destroyed; provided that the Employee's supervisor recommends replacement or reimbursement and the Employer or its designee approves such recommendation.

b. Replacement or reimbursement shall not be made by the Employer when a uniform is lost, stolen, destroyed or damaged due to negligence by the Employee, or where the uniform is willfully destroyed or damaged by the Employee.

3. The Employer shall post on the bulletin board a list of approved vendors where uniforms shall be purchased.

4. Whenever an Employee is required by the Employer to wear a uniform, the Employer shall have the option to (1) clean such uniforms or (2) provide a uniform maintenance allowance of \$20.00 per month provided:

a. if the uniform consists only of button shirt, trousers or jacket, the allowance shall be \$10.00 per month; or

b. if the uniform consists only of t-shirt or shorts or both, the allowance shall be \$6.00 per month.

Such allowance for each fiscal year shall be paid once annually on or about June 30 of the fiscal year. If the employment of the Employee commences or terminates during the fiscal year, the sum paid shall be adjusted on a prorated basis. No allowance shall be payable during periods of suspension of five (5) or more days or for periods when the Employee is on any leave of absence without pay.

5. Effective July 1, 2016, whenever an Employee is required by the Employer to wear a uniform, the Employer shall have the option to (1) clean such uniforms or (2) provide a uniform maintenance allowance of twenty-five dollars (\$25.00) per month provided:

a. if the uniform consists only of button shirt, trousers or jacket, the allowance shall be fifteen dollars (\$15.00) per month; or

b. if the uniform consists only of t-shirt or shorts or both, the allowance shall be ten dollars (\$10.00) per month.

Such allowance for each fiscal year shall be paid once annually on or about June 30 of the fiscal year. If the employment of the Employee commences or terminates during the fiscal year, the sum paid shall be adjusted on a prorated basis. No allowance shall be payable during periods of suspension of five (5) or more days or for periods when the Employee is on any leave of absence without pay.

#### B. Existing Policies and/or Practices

1. All policies and/or practices existing on the effective date of this document which provide or require that the Employer either initially furnish uniforms to Employees, or initially reimburse Employees for the cost of the uniforms which are purchased from a vendor approved by the Employer shall continue.

2. All policies and/or practices of the Employer existing on the effective date of this document which provide for the replacement of uniforms due to normal wear and tear, or which provide for a replacement allowance for uniforms due to normal wear and tear shall continue, except that the replacement allowance shall be 75% of the actual replacement cost of the items of uniforms purchased by the Employee.

#### C. Weapons Maintenance Allowance

The Employer shall provide to State law enforcement officers who are authorized and required to carry firearm as part of their official duties while on duty status a weapons maintenance allowance for the proper care and maintenance of (1) Employer-issued weapons, accessories and personal safety equipment, and (2) Employee-

purchased supplemental weapons, including ammunition, approved by the Employer.

1. The weapons maintenance allowance shall be granted for each full month worked. It is provided that paid or unpaid leaves shall be considered as time worked, except that unpaid leaves, including suspensions, of five (5) or more days shall not be considered as time worked and the allowance shall be prorated accordingly for such month(s). It is further provided that the allowance shall be prorated when employment commences after the first day of a month or terminates before the last day of a month.

2. The weapons maintenance allowance shall be paid to eligible Employees on or about the end of each three-month period of a fiscal year. The amount of the weapons maintenance allowance shall be calculated at the rate of thirty-five dollars (\$35.00) per month. Effective July 1, 2016, the amount of the weapons maintenance allowance shall be calculated at the rate of forty dollars (\$40.00) per month.

### ARTICLE 33 – HOLIDAYS

A. The following days of each year are established as holidays:

New Year's Day  
Dr. Martin Luther King, Jr. Day  
Presidents' Day  
Prince Jonah Kuhio Kalaniana'ole Day  
Good Friday  
Memorial Day  
King Kamehameha I Day  
Independence Day  
Statehood Day  
Labor Day  
Veterans' Day  
Thanksgiving Day  
Christmas Day

All election days, except primary and special election days, in the county wherein the election is held.

Any day designated by proclamation by the President of the United States or by the Governor as a holiday.

B. Observance of Holidays.

1. Employees whose workdays fall on Monday through Friday during the workweek in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls	Day Holiday Observed
Saturday	Friday preceding holiday
Sunday	Monday following holiday
Workday	Workday

2. Employees whose workdays fall on other than Monday through Friday during the workweek in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls	Day Holiday Observed
Day off Workday	First workday after the day off Workday

3. An Employee shall be compensated for a holiday based on the Employee's normal scheduled working hours provided the Employee worked (or was on paid leave) either the normal scheduled workday immediately preceding the holiday or the normal scheduled workday immediately following the holiday.

C. Two Holidays Observed on the Same Calendar Day

Whenever two holidays are to be observed on the same calendar day in accordance with paragraph B., above:

1. The first holiday shall be observed in the normal manner; and

2. The second holiday shall be observed on a date mutually agreed to between the Employee and the Employee's supervisor provided that such mutual agreement shall be reached at least sixty (60) calendar days prior to the date the two holidays were to be observed. If an agreement is not reached, the matter shall be referred to the Employee's appointing authority or designee other than the Employee's supervisor for a final and binding decision. The decision shall be made at least thirty (30) calendar days prior to the date the two holidays were to be observed.

3. The mutually agreed upon date shall occur within the same calendar year.

**ARTICLE 34 – VACATION LEAVE**

A. Earning of Vacation Leave.

1. All Employees shall earn vacation leave at the rate of fourteen (14) hours for each month of service. For the purpose of this Article, a workday is defined as an eight-hour (8) workday.

2. If such Employees render less than a month of service, their vacation allowance for such month shall be computed as follows:

Actual Straight Time Hours of Service	Working Hours of Leave
For 0 to 31	0
For 32 to 55	4
For 56 to 79	6
For 80 to 103	8
For 104 to 127	10

For 128 to 151	12
For 152 or more	14

The term "actual straight time hours of service" shall include paid holidays.

3. Individuals who are employed on a temporary, contractual or substitute basis while on vacation from another position in the State government or any political subdivision of the State shall not earn vacation allowance for such employment.

4. Vacation allowance shall accrue to an Employee while on leave with pay unless specifically prohibited by this document.

5. No vacation allowance shall accrue:

a. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave;

b. During the period the Employee is on leave without pay, except for the period on leave for disability and is being paid Workers' Compensation therefore;

c. During any period of valid suspension which is sustained in the event an appeal is made by the Employee;

d. During any period of unauthorized leave;

e. During any period the Employee is on educational leave; or

f. During any period of leave with pay pending investigation if the Employee:

- 1) is subsequently discharged/dismissed;
- 2) resigns or retires prior to the discharge/dismissal; or
- 3) resigns or retires during the investigation.

6. *RESERVED*

7. Vacation for a Non-regular Employee Serving a Temporary Appointment Outside the List (TAOL). A non-regular Employee serving on a TAOL basis shall not be entitled to a vacation leave with pay. However, whenever the duration of the TAOL is for longer than one year, including any extensions granted for a specific appointment, the non-regular Employee shall be entitled to (a) earn vacation leave beginning with the first month of the second year in accordance with A.1. and A.2., and (b) use the vacation leave accrued in accordance with the provisions of this Article. Whenever a non-regular Employee's TAOL is ended, any vacation leave accrued shall be automatically forfeited.

B. Accumulation of Vacation Leave.

1. An Employee may accumulate up to twenty-one (21) days of vacation leave per calendar year until the Employee accumulated the first forty-two (42) days. Subsequently an Employee may accumulate not more than fifteen (15) days of vacation leave per calendar year, even if the total accumulated days fall below forty-two (42) days. However, vacation leave in

excess of fifteen (15) days per year may be accumulated for good cause when a request for such accumulation is approved by the department head provided such request shall be accompanied by a stipulation that the Employee shall take such excess vacation days at a specified time. If the Employee fails to take this vacation at the time stipulated, the Employee shall forfeit the excess accumulation of vacation leave unless for good reason an extension of time is granted by the department head.

2. Vacation leave shall be administered on a calendar year basis and recorded at the end of each calendar year. After the end of each year, the appointing authority will furnish each Employee with a statement of the vacation leave credits remaining as of December 31.

3. Any Employee who is entitled to an annual vacation may accumulate for the succeeding year or years such unused portion of vacation allowance as is permitted above, provided that the total accumulation shall not exceed ninety (90) working days at the end of the calendar year. If any recorded accumulation of vacation allowance at the end of any calendar year shall exceed ninety (90) working days, the Employee shall automatically forfeit the unused vacation allowance which is in excess of the allowable ninety (90) working days.

4. Nothing in this Article contained shall be construed to prohibit the taking or to require the forfeiture, of any vacation which is validly granted and the taking of which is commenced on or before the last working day of any calendar year, notwithstanding that the recording of the current accrued vacation allowance for such year on the last day thereof might result in an accumulation of more than ninety (90) working days including the working days of the vacation so granted and then being taken, but the period of such vacation shall be regarded for all purposes as if the same had been entirely taken on or before the last day of such calendar year.

5. Whenever the Employee's accumulated vacation credit exceeds ninety (90) working days the Employee shall receive cash payment in lieu of vacation to the extent of the excess if, upon investigation by the Comptroller of the State, it is found that the excess vacation credit resulted from the Employee's inability to be allowed vacation time off because of orders of the appointing authority; otherwise the Employee shall automatically forfeit the excess.

6. Whenever an Employee is unable to take scheduled vacation because of illness, the Employee shall be permitted to reschedule the Employee's vacation; however, if the duration of illness is such that the vacation cannot be rescheduled within the calendar year and to protect against the forfeiture of excess vacation, the Employee shall be permitted to substitute vacation for sick leave or take such excess vacation immediately upon the conclusion of such sick leave.

7. Nothing contained in this Article shall be construed to require the forfeiture of vacation credits when an Employee terminates on or before the last working day of the calendar year, notwithstanding the fact that the recording of current accrued vacation for the year on the last day may result in an accumulation of more than ninety (90) working days.

#### C. Taking Vacation Leave Granted.

1. When a vacation is requested on a proper application by an Employee, it shall be granted and taken at such time or times as the department head may designate, provided, that it shall be as close to the requested period as conditions in the department will permit, and so as to prevent any forfeiture of vacation allowance.

2. When a vacation is granted, it may include, in accordance with the law and at the request of the Employee, all vacation allowance accrued up to the end of the Employee's last full month of service immediately preceding the commencement of the vacation. For non-regular Employees who earn vacation allowance pursuant to A.7, the vacation granted may include, at the request of the Employee, all vacation allowance accrued up to the commencement of the vacation.

3. Whenever an Employee's vacation leave which has been approved on the appropriate leave application form is rescinded, non-refundable travel and lodging expenses incurred by the Employee shall be reimbursed by the Employer.

4. No vacation leave of less than one (1) hour may be granted. However, when payment in lieu of vacation is legally permissible, or when the Employee's service will not continue at the expiration of the vacation, such payment may include a prorated amount for any fraction of a working day of vacation allowance to which the Employee is entitled.

D. Vacation Charged Only for Working Hours.

1. Employees on vacation shall have charged against their vacation allowances all working hours or fraction to the nearest 1/4 hour thereof which occur during the period of the Employee's vacation.

2. Employees normally working eight-hour (8) days, other than between the hours of 7:45 a.m. and 4:30 p.m. and/or other than between Monday and Friday inclusive, shall have charged against their vacation allowances only those hours or fraction to the nearest 1/4 hour thereof they were scheduled to work or would have worked had they not taken vacations.

E. Priority of Scheduling Vacation Leave. Priority in scheduling annual leave shall be given to Employees on the basis of seniority within the office. The priority shall be rotated in descending order according to seniority to assure that each Employee will receive priority scheduling at least once.

F. Recall from Vacation.

1. An Employee may be recalled to duty before the expiration of any granted vacation when, in the opinion of the department head, the Employee's services are required. In such event the Employee shall be paid for all work performed at the rate of one and one-half (1 1/2) times the Employee's regular rate of pay during such period the Employee is recalled from vacation and shall be granted unused vacation days at a time mutually agreed upon.

2. An Employee who is summoned during vacation to serve as a witness in any judicial proceeding in connection with the duties and responsibilities of the Employee's position on work related matters shall be compensated at one and one-half (1 1/2) times the Employee's regular rate of pay during the scheduled vacation period the Employee is required to serve and the Employee's unused vacation leave shall be rescheduled at a time mutually agreed upon.

3. An Employee who is summoned during vacation to serve as a witness or juror in any judicial proceedings, except those which may involve or arise out of the Employee's outside employment or personal business or private affairs shall, if the Employee serves, be permitted to reschedule the Employee's vacation for another mutually agreed upon time.

G. Advance Vacation. Advance vacation shall be granted only where an Employee has exhausted all earned vacation allowance and is detained out of the State of Hawai'i for a cause which the Employee establishes to the satisfaction of the department head to be out of the Employee's control. An Employee so detained shall immediately communicate with the department head and request such advance vacation and, if the same is granted, it shall be considered as taken with the express understanding that if such leave is not later earned during the term of employment the unearned portion of the vacation pay so advanced will be repaid, and on demand of the department head to the Employer by the Employee or the Employee's executors and administrators out of the Employee's estate, if the Employee is deceased, or deductions may be made for such unearned portion from any salary due the Employee, or from any monies in the annuity savings fund of the Employee's retirement system of the Employer to the credit of the Employee.

H. Effect of Transfer to Position in Which Vacation Allowance is Not Earnable. When an Employee is transferred from or otherwise relinquishes one position in which vacation allowance may be earned, and accepts employment in another position in the service of the Employer in which vacation allowance may not be earned, the Employee may be deemed, for purposes of receiving pay in lieu of vacation, including any lapsed vacation in excess of the maximum allowed, to have terminated services. But in the event that the Employee is not eligible under the circumstances to receive pay in lieu of vacation, the acceptance of such new employment shall not of itself have the effect of forfeiting any vacation allowance to which the Employee is entitled.

I. Pay for Vacation Allowance Upon Termination and When Moving Between Jurisdictions of the State.

1. Whenever a termination of services takes place, the Employee is to be paid, in accordance with Section 78-23, Hawai'i Revised Statutes, for vacation allowance either in a lump sum or in the normal manner as provided in subsection 2.

2. When payment in a lump sum is made to an Employee hired on or before June 30, 1997, the sum payable for vacation allowance shall be equal to the amount of compensation to which the Employee would be entitled or which would be allowed during the vacation period if the Employee were permitted to take the Employee's vacation in the normal manner. Whenever an Employee is discharged for cause or when payment in a lump sum is made to an Employee hired after June 30, 1997, the lump sum vacation allowance payable shall be computed on the basis of the Employee's accumulated vacation hours multiplied by the Employee's hourly rate of pay as of the effective date of discharge or termination.

3. However, if the Employee is rehired within seven (7) calendar days by the Employer and will continue to earn vacation allowance, such a payment shall not be made.

4. When an Employee moves from one Employer jurisdiction to another to accept employment in a position in which vacation allowance is earned, the Employee shall be given credit for the vacation earned or accumulated in the jurisdiction from which the Employee transferred, and the director of finance of the State shall make the appropriate transfer of funds to implement the transfer. However, the Employee may request and receive payment of a portion of or all of the Employee's vacation credits accumulated up to the effective date of the movement.

J. In the event that a vacation request is denied by the department head, the Employee may request the reasons for the denial in writing be furnished.

### ARTICLE 35 – SICK LEAVE

A. Earning of Sick Leave.

1. All Employees shall earn sick leave at the rate of fourteen (14) hours for each month of service. For the purpose of this Article, a workday is defined as an eight-hour (8) workday.

2. If such Employees render less than a month of service, their sick leave allowance for such month shall be computed as follows:

Actual Straight Time Hours of Service	Working Hours of Leave
For 0 to 31	0
For 32 to 55	4
For 56 to 79	6
For 80 to 103	8
For 104 to 127	10
For 128 to 151	12
For 152 or more	14

The term "actual straight time hours of service" shall include paid holidays.

3. Individuals who are employed on a temporary, contractual, or substitute basis while on vacation from another position in the State government or any political subdivision of the State shall not earn sick leave allowance for such employment.

4. Except as hereinafter otherwise provided, sick leave allowance shall accrue to an Employee while on leave with pay. No sick leave allowance shall accrue:

a. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave;

b. During the period the Employee is on leave without pay except for the period the Employee is on leave for disability and is being paid Workers' Compensation therefore;

c. During any period of valid suspension which is sustained in the event an appeal is made by the Employee;

d. During any period of unauthorized leave;

e. During any period the Employee is on educational or sabbatical leave; or

f. During any period of leave with pay pending investigation if the Employee:

- 1) is subsequently discharged/dismissed;
- 2) resigns or retires prior to the discharge/dismissal; or
- 3) resigns or retires during the investigation.

B. Accumulation of Sick Leave.

1. An Employee may accumulate the sick leave the Employee earns. The unused sick leave accumulated shall be credited to the Employee's account for subsequent use in the event of a sickness. Such unused sick leave may be accumulated without limitation.

2. Sick leave shall be administered on a calendar year basis and recorded at the end of each calendar year. After the end of each year, the appointing authority will furnish each Employee with a statement of the sick leave credit remaining as of December 31.

C. Notification of Sickness.

1. Notification of absence on account of sickness shall be given at least thirty (30) minutes prior to the start of the Employee's scheduled workday or if impracticable as soon thereafter as circumstances permit. However, in operations where Employees on a shift normally relieve Employees on the previous shift, notification of absence shall be given at least two (2) hours prior to the start of the Employee's scheduled shift, except in extenuating circumstances whereby an Employee is unable to provide such notice.

2. If, in the opinion of the department head, such notification has not been given in accordance with this Article, such absence may, in the discretion of the department head, be charged to vacation allowance or leave without pay.

D. Application for Sick Leave.

1. Application for sick leave shall be filed on a form prescribed by the Employer or designee, within five (5) working days after return to duty; provided, that in the event such Employee dies before that time or before returning to duty, the Employee's executor or administrator or department head if deemed proper may file such application within six (6) months after the Employee's death. Sick leave shall not be granted unless it is provided to the satisfaction of the department head that the Employee's absence from work was necessary because of sickness.

2. The department head shall require the Employee to submit a licensed physician's certificate for absences of five (5) or more consecutive working days to substantiate the fact that the period of absence was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the position. The department head may require the Employee to be examined by a physician of said department head's choice provided the department assumes the cost of the physician's services.

3. Absence due to sickness lasting less than one (1) hour shall not be charged to sick leave when such sickness occurs during the final hour of work and the Employee is released from work.

4. Upon application by the Employee, sick leave when granted may include all sick leave allowance as of the last full month of service immediately preceding the return to duty

from sick leave, or as much thereof as is needed, to permit the Employee to recover from the sickness.

E. Sick Leave Charged Only for Working Hours.

1. Employees absent from work on account of sickness, shall have charged against their sick leave allowance all working hours which occur during such absence.

2. Employees normally working eight-hour (8) days, other than between the hours of 7:45 a.m. and 4:30 p.m. and/or other than between Monday and Friday inclusive, shall have charged against their sick leave allowances only those hours they were scheduled to work or would have worked had they not taken sick leave.

F. Additional Sick Leave With Pay. Additional sick leave with pay, in excess of that which the Employee is entitled to, may be granted with the written approval of the Employer provided that due consideration shall be given to the length of service of the particular Employee requesting the leave.

G. Use of Cumulative Sick Leave Allowance after Transfer Between Departments. When an Employee resigns from a position to accept a position in another department of the Employer as the result of a transfer (including promotion, demotion, or original appointment) or in case of any other movement from one department to another of the Employer, the Employee shall not thereby forfeit any unused accumulated sick leave allowance credit in the department from which the Employee was transferred or moved. If, after the date of such transfer, the Employee uses any or all of such cumulative sick leave credit the appropriation of the department to which the Employee is transferred shall bear the entire charge thereof. In no event, shall the appropriation of the department from which the Employee was transferred or moved be charged for any cumulative sick leave taken after the date of transfer or movement.

H. Credit for Sick Leave during Vacation. When sickness lasting one or more consecutive working days occurs during a vacation, the period of sickness shall, upon submittal of a licensed physician's certificate or other satisfactory proof of such sickness as deemed necessary by the department head, be charged as sick leave, and the charge against vacation allowance shall be reduced accordingly. Application for such substitution of sick leave for vacation shall be made within five (5) working days upon return to work.

I. Sick leave shall be allowed for medical, dental, optical, and optometrical examination appointments which the Employee cannot schedule for non-work time.

J. Sick leave shall be allowed for temporary disabilities as defined under the Equal Employment Opportunity Commission Guidelines, Title 29, Chapter XIV, Section 1604, of the Code of Federal Regulations.

K. Physical examinations required by the Employer shall not be charged against an Employee's sick leave.

L. An Employee who is laid off pursuant to Article 9, Reduction-in-Force, shall retain accumulated sick leave credits for the period that the Employee's name remains on the recall list. If the Employee is recalled to work pursuant to Article 9, the Employee shall be credited with all accumulated sick leave credits retained.

M. Sick Leave upon Separation from Service.

1. Upon separation from service, an Employee shall forfeit all sick leave allowance accrued and accumulated to the date of the separation except as otherwise provided by Chapter 88, Hawai'i Revised Statutes. This paragraph shall not be construed to provide for the forfeiture of sick leave accumulation when the Employee is granted leave without pay, including military leave, or is rehired by the Employer within seven (7) calendar days.

2. When an Employee moves from one Employer jurisdiction to another to accept employment in a position in which sick leave allowance is earned, the Employee may request and be allowed to transfer any unused sick leave credits accumulated at the time of movement. Any sick leave credit used after the effective date of the movement shall be charged to the appropriation of the receiving Employer.

### ARTICLE 36 – FAMILY LEAVE

A. Employee entitlement to state family leave is set forth in Chapter 398, Hawai'i Revised Statutes. Accrued vacation leave and/or sick leave may be substituted for any part or all of the allowable state family leave up to a maximum of four (4) weeks per designated twelve (12) month period.

B. Employee entitlement to federal family leave is set forth in the Family and Medical Leave Act of 1993.

C. Administration and enforcement of the state and federal family leave provisions shall be in accordance with applicable laws and regulations. Appeals with regard to state and federal family leave shall be filed with the appropriate state and/or federal agencies who are responsible for administering and enforcing the respective provisions mentioned herein, i.e., State of Hawai'i Department of Labor and Industrial Relations or the United States Department of Labor, Wage and Hour Division. Appeals shall not be filed through Article 10, Appeal Procedure, unless a representative of the applicable state or federal agency first determines that the agency does not have jurisdiction over the administrative appeal because the appeal concerns the interpretation/application of this Article.

### ARTICLE 37 – FUNERAL LEAVE

A. Employees covered under this document shall be allowed three (3) working days as funeral leave with pay which shall not be deducted from any other leave to which the Employee may be entitled. Funeral leave shall be granted on such days as designated by the Employee provided they fall within a reasonable period of time after a death in the immediate family.

B. For the purpose of this Article immediate family is defined as: parents, brothers, sisters, spouses/reciprocal beneficiaries, children, parents-in-law, grandparents, grandchildren, or an individual who has become a member of an immediate family through the Hawaiian "Hanai" custom. Provided, however, an individual affected by the "Hanai" relationship shall be entitled to utilize funeral leave only for those members of the Employee's immediate family resulting from the "Hanai" relationship. Provided further that funeral leave with pay can only be used for one mother and one father regardless of whether the parent relationship is natural,

hanai, step or legal guardians. "Reciprocal beneficiary," for purposes of this Article, means two adults who meet the requirements of HRS 572C-4 and who have registered their reciprocal beneficiary relationship pursuant to HRS 572C-5. "Reciprocal beneficiary" is further defined to mean that individual the Employee has selected as the Employee's life partner in lieu of a spouse.

C. Hanai/natural parents not covered in B. above; son- and daughters-in-law and great grandparents relationship. An Employee shall be entitled to use up to three (3) days of vacation leave or compensatory time off for the death of hanai/natural parents not covered in B. above, son- or daughter-in-law, great grandparent. Vacation leave or compensatory time off shall be granted on days designated by the Employee provided they fall within a reasonable period of time after the death.

D. If the death or funeral occurs outside the State of Hawai'i, the Employee shall be granted, upon request, a reasonable number of additional days of accumulated vacation leave, compensatory time off, or leave without pay for travel to attend the funeral, or to make necessary arrangements for a funeral in the State of Hawai'i.

#### **ARTICLE 38 – RESERVED**

#### **ARTICLE 39 – SABBATICAL LEAVE**

A. For purposes of improving public services, the Employer may grant sabbatical leaves of absence under conditions set forth in this Article.

B. An Employee who has served six (6) continuous years within the applicable governmental jurisdiction may qualify for a sabbatical leave of absence. Such leave shall be for a period not to exceed one (1) year and may not be granted again to the same Employee until the Employee has served an additional period of six (6) continuous years within the applicable governmental jurisdiction. For the purpose of computing continuous years of service in this Article, periods of unauthorized leaves without pay shall not be counted; however, such leaves shall not constitute a break in service.

C. The Employer shall consider at least the following matters in reviewing a request for sabbatical leave:

1. The purpose of the leave is mutually beneficial to the Employee and the Employer;
2. The nature, length and pertinency of educational course work, research, or other professional/educational activity which the Employee plans to undertake during the sabbatical leave are consistent with the needs of the service;
3. The Employee's absence will not adversely affect the operations of the department; and
4. The Employee's work performance record and seniority (continuous length of service in the applicable governmental jurisdiction).

D. In the event a request for sabbatical leave is denied, the Employee may request and shall be provided the reasons for denial in writing from the Employer.

E. Employees on sabbatical leave shall be paid an amount equal to one-half of the basic compensation which the Employee was receiving at the commencement of the leave. Basic compensation shall include any negotiated increase in the schedule as may be provided for in this document. The payments shall be made in accordance with regular pay periods.

F. An Employee granted sabbatical leave may engage in other employment provided the primary purpose for which the leave was granted is met.

G. Before being granted a sabbatical leave, an Employee shall enter into a contract with the Employer which shall provide for the following:

1. The Employee shall agree to return to work upon termination of sabbatical leave or any other leave which may be granted by the Employer immediately following the sabbatical leave. If the Employee fails to report for work upon termination of sabbatical and/or any other leave granted under this document, the Employee shall be considered to have resigned and shall refund all monies received while on sabbatical leave.

2. Upon return from sabbatical leave and/or any other leave granted under this document, the Employee shall agree to work in the appropriate department for a period of two (2) continuous years. If the Employee fails to do so, the Employee shall refund all monies received from the Employer while on sabbatical leave; provided, however, in the event of the death of the Employee, the requirement to refund all monies shall be waived. In the event the Employee is unable to continue employment due to illness or injury, the Employer may shorten the return period.

3. The Employee shall be guaranteed a return to the Employee's position or an equivalent position at the expiration of the sabbatical leave and/or any other leave granted under this document. Upon the Employee's return, the Employee shall have the same salary range and step that the Employee had at the time of taking the leave and the Employee's increment date shall be advanced equivalent to the duration of the leave, provided it is not inconsistent with terms of this document.

4. The Employee shall not accrue any vacation or sick leave credits during the period of sabbatical leave.

5. Any other provisions deemed necessary by the department to be included in the contract.

#### **ARTICLE 40 – MILITARY LEAVE**

A. Military Leave With Pay.

1. Employees whose appointment is for six (6) months or more shall, while on active duty or during periods of camps of instruction or field maneuvers as members of the Hawai'i national guard, air national guard, naval militia, organized reserves, including the officers' reserve corps and the enlisted reserve corps, under call of the President of the United States or the governor of the State, be placed on leave with pay status for a period not

exceeding fifteen (15) working days in any calendar year, except as provided in subparagraph A.2. No such person shall be subjected by any person, directly or indirectly, by reason of absence to any loss or diminution of vacation or holiday privileges or be prejudiced by reason of the absence with reference to promotion or continuance of employment or reemployment.

2. If an Employee is called to active duty or required to report for camp training or field maneuvers by official military orders a second time within a calendar year, the Employee may elect to use up to fifteen (15) working days of the succeeding calendar year; provided that the Employee's entitlement to the working days advanced shall be canceled from the succeeding calendar year, and the Employee shall so agree in writing. The Employee who is advanced leave shall be required to reimburse the Employer an amount equivalent to the days advanced in the event the Employee leaves government employment prior to completion of a year's service in the succeeding year from which leave was advanced, except in the case of death of the Employee.

B. Military Leave Without Pay.

1. Employees shall be entitled to military leave without pay for service in the United States Armed Forces.

2. The duration of military leave without pay shall not exceed five (5) years provided that Employees whose period of employment is less than five (5) years, the military leave without pay shall not exceed the specified period of employment.

3. The Employee has the option to 1) substitute any available paid vacation leave time for otherwise unpaid leave or 2) be paid their available vacation leave time in a lump sum payment. The Employee's choice of lump sum payment for vacation allowance will not of itself cause the forfeiture of unused sick leave credits.

4. Upon conclusion of the military leave without pay, Employees shall have reemployment rights in accordance with Chapter 43 of Title 38 of the United States Code.

5. Replacements for Employees on Military Leave Without Pay.

a. In filling a position which became vacant by military leave without pay, the appointing authority may appoint a replacement Employee and shall inform the replacement the status of the replacement's employment and the provisions of this document relating to military leaves without pay.

b. A replacement employed in the position from which military leave was granted shall be displaced so that the position may be filled again by the former Employee returning to government employment. Replacement Employees with regular status shall be returned to their former positions or other comparable positions deemed appropriate by the director of personnel services. In the event there are no such positions, the replacement Employees shall be subject to Article 9, Reduction-In-Force.

6. Administration and enforcement of the provision relating to military leave without pay shall be in accordance with applicable laws and regulations.

a. Appeals with regard to military leave without pay shall be filed with the Federal Department of Labor who is responsible for administering and enforcing the respective provisions covering military leave without pay.

b. Appeals relative to military leave without pay shall not be filed through Article 10, Appeal Procedure.

C. Leave for Pre-Induction Examination. An Employee who is absent from work for the purpose of undergoing physical examination prior to induction into the United States Armed Forces shall be granted leave with pay for such purpose, and the leave shall not be charged against the Employee's vacation allowance.

#### **ARTICLE 41 – LEAVE FOR INDUSTRIAL INJURY**

A. Whenever an Employee who is temporarily exposed to unusually hazardous conditions, or who is a member of a class recognized by the action of repricing to be a class exposed to unusually hazardous conditions, receives personal injury arising out of the unusually hazardous conditions and in the performance of the Employee's duty, the Employee shall be placed on accidental injury leave unless suspended or dismissed for cause, and continued on the payroll of the respective department at the Employee's full regular monthly salary during the first four (4) months of disability and thereafter during the period of total disability from work at sixty percent (60%) of the Employee's regular monthly salary, as though the Employee did not sustain an industrial injury. The Employee shall be entitled to all rights and remedies allowed under Chapter 386, Hawai'i Revised Statutes, as amended, provided that any salary paid under this section shall be applied on account of any compensation allowed the Employee under Chapter 386, Hawai'i Revised Statutes, as amended, or any benefits awarded the Employee under Part III of Chapter 88, Hawai'i Revised Statutes, as amended.

B. No accidental injury leave shall be granted for an injury incurred by an Employee by the Employee's willful intention to injure oneself or another or by the Employee's intoxication.

#### **ARTICLE 42 – WORKERS' COMPENSATION LEAVE BENEFITS**

A. An Employee who is absent from work because of injuries and/or illnesses incurred while working and is receiving workers' compensation wage loss replacement benefits or temporary total disability or temporary partial disability payments shall continue to earn vacation and sick leave credits as though the Employee was not absent from work.

B. An Employee who is absent from work and is receiving workers' compensation wage loss replacement benefits may use accumulated sick leave credits to receive an additional amount that would bring the Employee's total compensation to a sum equal to the Employee's regular compensation. In the event the Employee does not have any accrued sick leave credits, the Employee may elect to use accrued vacation credits to bring the Employee's total payment

to a sum equal to the Employee's regular salary. Accumulated credits may be used to continue the Employee's regular compensation during the waiting period.

C. An Employee shall not forfeit any excess accumulated vacation leave credit when the Employee is receiving workers' compensation wage loss replacement benefits. The taking of excess vacation leave under Article 34 – Vacation Leave shall apply.

D. An Employee is entitled to use the sick and vacation leave credits earned during the period of absence from work.

#### **ARTICLE 43 – LEAVE FOR JURY OR WITNESS DUTY**

A. An Employee covered by the terms of this document, if summoned to serve as a witness or juror in any judicial proceedings except those which may involve or arise out of the Employee's outside employment or personal business or private affairs shall, if the Employee serves, be entitled to leave of absence with pay.

B. An Employee who serves as a witness or as a juror, and who receives a fee or mileage allowance shall not suffer the loss of such monies or have it offset against the Employee's salary account.

C. An Employee called to serve as a witness in a case which may involve or arise out of the Employee's outside employment or personal business or private affairs shall not be entitled to leave of absence with pay as provided in paragraph (A) above, provided that the Employee shall be entitled to use annual vacation leave or elect to take leave without pay.

D. In the event that an Employee on the evening or midnight shift and/or work schedule other than Monday through Friday is required to serve on a jury, the Employer shall place such an Employee on the day shift if such a shift exists and/or on the Monday through Friday work schedule for the duration of the jury duty. Whenever such a change is made, adjustments in shift assignments and work schedules of all affected Employees including the Employee serving on jury duty shall not result in any claims for overtime except as provided in Article 22, B.1., B.2., and B.4.

#### **ARTICLE 44 – TIME OFF FOR BLOOD DONATION**

Employees shall be granted a reasonable amount of time off with pay to donate blood to the Blood Bank.

#### **ARTICLE 45 – OTHER LEAVES OF ABSENCE**

A. Leave Without Pay to Work at the State Legislature. With the approval of the chief executive, and upon request of a member of the State Legislature, a regular Employee may be granted a leave of absence without pay to render service at the State Legislature. The leave without pay shall be for a duration of no more than twelve (12) months. The Employee shall have return rights as provided in paragraph I.

B. Leave Without Pay to Delay a Reduction-In-Force. A regular Employee may be granted a leave of absence without pay for no more than twelve (12) months in order to delay a planned layoff when the position which the Employee occupies has been abolished. If the Employee has not been placed at the expiration of the twelve (12) month period, the Employee shall be subject to Article 9, Reduction-In-Force.

C. Leave Without Pay for Employees Serving Temporary Intergovernmental and Intragovernmental Assignments and Exchanges. Subject to the provisions of section 78-27, Hawai'i Revised Statutes, Employees on temporary intergovernmental and intragovernmental assignments and exchanges may be granted leaves without pay. The Employee shall have the same rights and benefits as any other Employee of the sending agency who is on leave without pay status.

D. Educational Leave Without Pay. An appointing authority may grant a leave without pay to regular Employees for any of the following reasons:

1. To pursue a course of instruction which is related to the Employee's field of work;
2. To engage in research which has a beneficial effect on the skills or knowledge required in the Employee's field of work; or,
3. To improve the Employee's ability and increase the Employee's fitness for public employment.

The duration of the educational leave without pay shall be for no more than twelve (12) months. For good cause, as determined by the appointing authority, educational leave without pay may be extended an additional twelve (12) months. The Employee shall have return rights as provided in paragraph H.

E. Industrial Injury Leave.

1. An Employee may be granted leave without pay not to exceed twelve (12) months, provided the Employee is receiving workers' compensation wage loss replacement benefits.

2. An Employee may be granted additional leave without pay in twelve (12) month increments, provided the Employee is receiving workers' compensation wage loss replacement benefits or provided the Employee's application for retirement is pending determination by the State Retirement System.

F. Leave Without Pay to Work in Certain Appointive Positions.

1. An appointing authority may grant a leave without pay to a regular Employee to render services as a department head, agency head, deputy department head, as a secretary to a department head or a deputy department head, or as an appointee to any other position within the jurisdiction. The Employer shall compile a list of the appointive positions to which this section applies and maintain its currency.

2. The rights of an Employee who is released from the above appointments are as follows:

a. Upon completion of no more than four (4) years of the leave without pay, reinstatement in the position in which the Employee last held a permanent appointment. In the event the Employee is retained beyond these four (4) years for the transition to a new chief executive's term, but for not more than three (3) months, the Employee shall retain the reinstatement right to the Employee's former civil service position.

b. Following more than four (4) years of leave without pay, reinstatement to the Employee's former position if vacant or placement in a comparable vacant position.

c. Upon reinstatement in the former position or placement in another comparable position, compensation shall be as though the Employee had remained continuously in the position.

G. Other Leaves Without Pay. An appointing authority may grant regular or non-regular Employees leaves without pay for no more than twelve (12) months, for any of the following reasons:

1. To recuperate from physical or mental illnesses; provided, for leaves without pay of five (5) days or more, an Employee shall submit a licensed physician's certificate to substantiate the fact that period of leave without pay was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the Employee's position. However, the Employer may require an Employee to submit a licensed physician's certificate from the first day of absence without pay.

2. Death in the family.

3. To extend an annual vacation leave for travel, rest, or for recreation purposes.

4. To seek political office.

5. Personal business of an emergency nature.

6. Annual periods of temporary cessation of normal operation.

7. Child or pre-natal care.

8. Child adoption leave.

9. Care for an immediate family member (as defined in Article 37 - Funeral Leave) who is ill or injured.

10. Care for parents, spouse, children and/or grandparents who are unable to perform one or more Activities of Daily Living (ADL). Typical Activities of Daily Living include the following:

a. Mobility: Walking or wheeling any distance on a level surface.

b. Transferring: Moving between the bed and a chair or the bed and a wheelchair.

c. Dressing: Putting on and taking off all necessary items of clothing.

d. Toileting: Getting to and from the toilet, getting on and off the toilet, and associated personal hygiene.

e. Eating: All major tasks of getting food into the body.

f. Bathing: Getting into or out of a tub or shower and/or otherwise washing the parts of the body.

g. Contenance: Controlling one's bladder and bowel functions.

H. Return Rights from a Leave Without Pay. Except as specifically provided otherwise in this Article, an Employee granted leave without pay under this Article shall, upon condition of showing to the satisfaction of the appointing authority that the Employee has fulfilled the purpose of the leave, shall have the following rights:

1. A regular Employee, upon expiration of the leave shall be reinstated to the Employee's former position; provided, that if such position has been abolished during the period of such leave, the provisions of Article 9, Reduction-In-Force shall be applicable.

2. A non-regular Employee, upon expiration of the leave shall have reinstatement rights to the Employee's former position, provided that the status and function of the position remained the same in the Employee's absence. In the event that the Employee cannot be reinstated, the Employee shall be terminated.

3. Failure of an Employee to return to duty at the expiration of the leave shall be deemed a resignation; provided that if within fifteen (15) days of the expiration of the leave, the Employee furnishes satisfactory reasons to the appointing authority as to why the Employee was unable to return immediately after the expiration of the leave, the Employee shall be entitled to such rights as the Employee had at the expiration of the leave. In the event the appointing authority does not accept the reasons, the issue of the reasonableness of the reasons shall be subject to the provisions of Article 10, Appeal Procedure.

I. Other Rights and Conditions.

1. A regular Employee on an approved leave of absence shall be eligible during the period on such leave for promotional examinations and status of promotional eligible lists under the same conditions as though in active service.

2. An Employee who accepts employment, either in another position under civil service or in conflict with the purpose of the leave during the leave of absence, shall be deemed to have resigned from the Employee's position from which the leave was granted, effective the date of the appointment to the other position.

J. Unauthorized Leave. Any absence from work which does not meet the requirements for an authorized leave, with or without pay, shall be charged as unauthorized absence from work. Any period of unauthorized absence from work shall not be considered as service rendered.

K. Leave Pending Investigation of Charges.

1. Whenever an investigation of charges against an Employee is pending and the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation subject to the following:

a. The Employee who is placed on the leave without pay pending an investigation shall be given written notice within forty-eight (48) hours after such action is taken. The written notice shall provide an explanation, including available facts, on why the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place and the effective date of the leave of absence without pay pending an investigation.

b. The period of leave of absence without pay pending an investigation shall be for such length of time as may be necessary to conclude the investigation, but not exceeding thirty (30) days. In the event the investigation exceeds thirty (30) days, the appointing authority may exercise its options provided in subparagraph K.2.

c. If the Employee who has been placed on leave of absence without pay pending investigation is cleared of all charges or if the charges are dropped or not substantiated, the Employee shall be reinstated without loss of pay and all rights and benefits will be restored as though the Employee had not been on leave of absence without pay pending an investigation.

d. Disciplinary or Discharge Action Resulting From an Investigation of Charges.

1) In the event a suspension is warranted, the Employer may consider any portion of the period of the leave of absence without pay pending an investigation towards fulfilling, in whole or in part, the disciplinary action considered appropriate by the Employer. The Employee shall be reinstated without loss of pay and benefits for any portion of the period of the leave of absence without pay which has not been considered towards fulfilling the disciplinary action.

2) In the event a discharge is warranted, the Employee shall not be granted any back pay or restored with any rights and benefits for the period of the leave of absence without pay pending an investigation.

2. Notwithstanding the foregoing, whenever an investigation of charges against an Employee is pending, the Employer shall have the discretion to:

a. retain the Employee in active duty status;

b. place the Employee on leave of absence with pay;

c. return the Employee to active duty status from leave without pay pending an investigation; or,

d. reassign the Employee to another work unit or area and in the same or different capacity.

The action shall be for the length of time as may be necessary to conclude the investigation.

#### ARTICLE 46 – TRAVEL

A. Applicable rules, ordinances, and policies. Except as modified by this Article, Chapter 3-10, Hawai'i Administrative Rules, in the case of the State, and applicable rules, regulations, ordinances, or policies, in the case of the county jurisdictions, shall remain applicable for the duration of this document.

B. Travel occurring on same island. When an Employee is required to work in locations which make it impracticable and undesirable to return home at the end of a workday, with prior approval one (1) of the following shall apply:

1. If commercial lodging is utilized, the Employee shall be paid a travel allowance pursuant to paragraph D.

2. If commercial lodging is not available, such as in mountainous or other remote areas, the Employer shall provide cabins or tentage and needed camping supplies and equipment. At the Employee's option, the Employer shall also provide adequate stores of food or pay the Employee twenty dollars (\$20.00) per day in lieu thereof. The twenty dollars (\$20.00) per day shall be applicable for each twenty-four (24) hour period or portion thereof, calculated from the beginning of the Employee's work day until the Employee's return to the Employee's permanent workplace from the mountainous or other remote area.

3. If non-commercial lodging is available, the Employer shall have the option to select such lodging for the Employee's use. At the Employee's option, the Employer shall also provide adequate stores of food or pay the Employee twenty dollars (\$20.00) per day in lieu thereof. The twenty dollars (\$20.00) per day shall be applicable for each twenty-four (24) hour period or portion thereof, calculated from the beginning of the Employee's work day until the Employee's return to the Employee's permanent workplace from the non-commercial lodging.

C. Off-island travel to mountainous or other remote areas.

1. Whenever an Employee is required to travel on official business to mountainous or other remote areas where no commercial lodging is available, the Employer shall provide cabins, tentage, or shall arrange for lodging within available facilities, and shall provide adequate stores of food or pay the Employee twenty dollars (\$20.00) per day in lieu thereof.

2. Notwithstanding the provisions of this paragraph, a mutual agreement may be arranged among Employees with the Employer to provide for per diem expenses pursuant to paragraph D in lieu of this paragraph.

D. Intra-state travel.

1. When an Employee is required to travel on official business to another island, the Employee shall be provided with a per diem of ninety dollars (\$90.00) per twenty-four (24) hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods with the quarter day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin one (1) hour before the scheduled flight departure time and shall end upon the return to the Employee's home airport. This computation shall be applicable to all trips, except one-day trips (leaving and returning on the same day). In the case of one-day trips, the Employee shall be entitled to a meal allowance of twenty dollars (\$20.00) in lieu of per diem.

3. When authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

E. Out-of-state travel.

1. When an Employee is required to travel on official business to areas outside the State of Hawai'i, the Employee shall be provided a per diem of one hundred forty-five dollars (\$145.00) per twenty-four (24) hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin no later than twenty-four (24) hours prior to the time the Employee is to be at work at the out-of-state destination. The Employee shall be scheduled to arrive at the out-of-state destination (applicable airport) at least ten (10) hours before reporting for duty. The official travel time shall end upon the return to the Employee's home airport. All calculations will be based on Hawaiian Standard Time.

3. When an authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

F. Reimbursement for commercial lodging expenses in excess of the lodging allowance.

Included in the per diem rate designated in paragraphs D and E shall be a daily allowance for commercial lodging except for one-day trips. For intra-state travel, this lodging allowance shall be fifty dollars (\$50.00) per twenty-four (24) hour day. For out-of-state travel, this allowance shall be eighty-five dollars (\$85.00) per twenty-four (24) hour day.

Whenever an Employee's commercial lodging cost exceeds the applicable lodging allowance, the Employee shall be entitled to an additional amount added to the Employee's per diem. This amount shall be equal to the difference of the actual daily cost of commercial lodging and the applicable allowance provided herein, multiplied by the number of days spent on commercial lodging. Unless otherwise waived by the Employer, request for commercial lodging expenses in excess of the lodging allowance shall be made in advance of the Employee's trip.

G. Advanced per diem and reimbursements.

Whenever possible, an Employee shall receive advanced per diem for official travel. The Employer shall reimburse Employees who request reimbursement for excess lodging expenses as soon as possible.

H. Furnished meals and lodging.

When lodging or meals are provided at no cost to the Employee, the Employer shall continue its existing practices in adjusting the per diem amounts. However, the per diem allowance provided herein shall not be adjusted when meals are included in conference programs.

I. Mileage reimbursement.

1. The term "vehicles" as used in this paragraph only applies to automobiles, trucks, vans, or buses.

2. Employees who are authorized to use their private vehicles to carry out their duties and responsibilities shall be reimbursed at the standard mileage rate prescribed by the Internal Revenue Service for each mile traveled for business purposes.

3. Employees who are presently being provided automobile allowance for the required use of their private vehicles in the performance of their official duties shall continue receiving such allowance, provided that the amount of the allowance may be modified through a separate agreement mutually agreed to by the Employee and the Employer. However, the allowance shall be terminated when the Employer no longer requires the Employees to use their private vehicles in the performance of their official duties.

4. Mileage reimbursement to and from home to work site shall be allowed for all call back work and for overtime work on scheduled days off and holidays, except for Employees whose normal work hours include the holiday.

#### **ARTICLE 47 – ALTERNATIVE WORK SCHEDULES**

Employees may present alternative work schedules for an office, program or work unit, for the Employer's consideration. If a proposal for alternative work schedule is considered and approved by the Employer, an agreement shall be entered into between the Employees and the Employer.

If the Employees believe that the denial of the proposal for an alternative work schedule is arbitrary and capricious, they may process an appeal in accordance with Article 10 – Appeal Procedure, provided such appeal shall not be subject to the Merit Appeals Board.

#### **ARTICLE 48 – PARKING**

A. Parking Rates.

1. This paragraph shall apply only to Employees under the following conditions:

a. The Employee is required to provide a personal vehicle for work purposes as a condition of employment as determined by the Employer; and

b. The Employee parks at a parking facility under the jurisdiction of the State Department of Accounting and General Services.

2. Parking rates for Employees covered by this paragraph shall be as follows:

STATE OF HAWAII

Island of O`ahu

Covered Parking	\$12.50/month
Uncovered Parking	7.50/month

Neighbor Islands

Covered Parking	\$ 7.50/month
Uncovered Parking	5.00/month

B. It is understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who are parking in commercial parking facilities shall be offered a parking assignment in a DAGS facility, as space becomes available. Until such time that the Employer can offer such parking assignment, the Employer agrees to reimburse each Employee a monthly sum as follows:

STATE OF HAWAII

Island of O`ahu

Covered Parking	\$12.50/month
Uncovered Parking	7.50/month

Neighbor Islands

Covered Parking	\$ 7.50/month
Uncovered Parking	5.00/month

Any Employee who declines an offer to park in a DAGS facility shall not be entitled to the reimbursement.

C. It is further understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who presently are not charged for parking shall continue to receive free parking, unless their conditions of employment are changed.

#### ARTICLE 49 – DRUG AND ALCOHOL TESTING

The alcohol and controlled substance testing program consists of two components. Part one pertains to alcohol and controlled substance testing for all Employees based on "reasonable suspicion." Part two pertains to "random" alcohol and controlled substance testing for certain identified health, safety and public trust (HSPT) Employees. The Employer shall maintain a list of identified HSPT positions.

The testing program is intended to keep the workplace free from the hazards related to the use of alcohol and controlled substances. Employees are expected to report to work in a physical and mental condition consistent with this program which enables them to perform their duties in a safe and productive manner. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary action shall be afforded "due process" as provided in the alcohol and controlled substance testing program and applicable provisions of this document.

All health, safety and public trust Employees will receive a copy of the "random" alcohol and controlled substance program. All other Employees will receive a copy of the "reasonable suspicion" alcohol and controlled substance program.

NOTE: The program reflects a "two strikes and you're out" disciplinary action schedule for confirmed positive tests for alcohol and controlled substances.

## **ARTICLE 50 – SALARIES**

A. The Bargaining Units 3 and 4 salary schedule in effect on February 21, 2016 shall continue to be in effect from that date until June 30, 2016. This schedule shall be designated as Exhibit A.

B. Subject to the approval of the respective legislative bodies and effective February 22, 2016, Employees who become eligible for step movements from February 22, 2016 through June 30, 2016 in accordance with Paragraph O. of Article 14, Compensation Adjustment, shall receive their step movements on their step movement dates.

C. Subject to the approval of the respective legislative bodies and effective July 1, 2016:

1. Due to the legislative intent of Act 137, SLH 2013, the salary schedule in effect on June 30, 2016, Exhibit A, shall be restructured to address the specialized needs of this bargaining unit.

a. Exhibit A shall be restructured to reflect the following:

1) Pay ranges from SR04 to SR10 and from SR30 to SC03 shall be deleted.

2) Steps A, B and C shall be deleted and the remaining Steps D to M shall be redesignated as Steps A to J, respectively.

3) Two new Steps K and L shall be added after Step J.

b. Following C.1.a. above, Employees shall be placed on the restructured schedule as follows:

1) Employees on Steps A to L shall be placed on the corresponding pay range and step.

2) Employees on Step M shall be placed on Step L of the corresponding pay range.

2. Salary schedule:

a. Following the restructuring of Exhibit A as provided in Paragraph C.1.a. above, the resulting salary schedule shall be amended to reflect a four percent (4%) increase and such amended schedule shall be designated as Exhibit B.

b. Following C.2.a. above, Employees shall be placed on the corresponding pay range and step of Exhibit B.

c. Employees on Step M as of June 30, 2016 shall receive a one-time payment equivalent to four percent (4%) of the Employee's new annual basic rate of pay.

3. Employees not administratively assigned to the salary schedule shall receive a four percent (4%) increase to their basic rate of pay and a one-time payment equivalent to four percent (4%) of the individual Employees' new annual basic rate of pay.

4. Step Movement:

Employees who are eligible for step movements from July 1, 2016 through June 30, 2017 in accordance with Paragraph O. of Article 14, Compensation Adjustment, shall receive their step movements on their step movement dates.

**ARTICLE 51 –  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**

“Health Benefit Plan” shall mean the medical PPO, HMO, prescription drug, dental, vision and dual coverage medical plans.

**A. Effective July 1, 2015**

Subject to the applicable provisions of Chapter 87A and 89, Hawaii Revised Statutes, the Employer shall pay monthly contributions which include the cost of any Hawaii Employer-Union Health Benefits Trust Fund (Trust Fund) administrative fees to the Trust Fund effective July 1, 2015, not to exceed the monthly contribution amounts as specified below:

1. For each Employee-Beneficiary with no dependent-beneficiaries enrolled in the following Trust Fund health benefits plans:

BENEFIT PLAN	TOTAL EMPLOYER CONTRIBUTION
a. Medical (PPO or HMO) (medical & chiro)	\$228.38
b. Dental	\$ 18.40
c. Vision	\$ 3.84
d. Dual coverage (medical, drug & chiro)	\$ 25.50
e. Drug Plan	\$ 63.12

The Employer shall pay the same monthly contribution for each member enrolled in a self only medical plan (PPO or HMO), regardless of which plan is chosen.

2. For each Employee-Beneficiary with one dependent-beneficiary enrolled in the following Trust Fund health benefit plans:

BENEFIT PLAN	TOTAL EMPLOYER CONTRIBUTION
a. Medical (PPO or HMO) (medical & chiro)	\$545.10
b. Dental	\$ 36.82
c. Vision	\$ 7.08
d. Dual coverage (medical, drug & chiro)	\$ 63.36
e. Drug Plan	\$153.36

The Employer shall pay the same monthly contribution for each member enrolled in a two-party medical plan (PPO or HMO), regardless of which plan is chosen.

3. For each Employee-Beneficiary with two or more dependent-beneficiaries enrolled in the following Trust Fund health benefit plans:

BENEFIT PLAN	TOTAL EMPLOYER
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	CONTRIBUTION
a. Medical (PPO or HMO) (medical & chiro)	\$704.28
b. Dental	\$ 60.56
c. Vision	\$ 9.26
d. Dual coverage (medical, drug & chiro)	\$ 70.44
e. Drug Plan	\$195.40

The Employer shall pay the same monthly contribution for each member enrolled in a family medical plan (PPO or HMO), regardless of which plan is chosen.

4. For each Employee-Beneficiary enrolled in the Trust Fund group life insurance plan, the Employer shall pay \$4.12 per month which reflects one hundred percent (100%) of the monthly premium and any administrative fees.

C. Effective July 1, 2016

Effective July 1, 2016 for plan year 2016-2017, with the exception of items 1a., 2a., 3a., and 4., which shall be the dollar amounts noted, the Employer shall pay a specific dollar amount equivalent to sixty percent (60%) of the final premium rates established by the Trust Fund Board for the respective health benefit plan, plus sixty percent (60%) of all administrative fees.

1. The amounts paid by the Employer shall be based on the plan year 2016-2017 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with no dependent-beneficiaries enrolled in the following Trust Fund health plans:

a. Medical (PPO or HMO) (medical & chiro)	\$238.38
b. Dental	
c. Vision	
d. Dual coverage (medical, drug & chiro)	
e. Drug Plan	

The Employer shall pay the same monthly contribution for each member enrolled in a self only medical plan (PPO or HMO), regardless of which plan is chosen.

2. The amounts paid by the Employer shall be based on the plan year 2016-2017 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with one dependent-beneficiary enrolled in the following Trust Fund health plans:

a. Medical (PPO or HMO) (medical & chiro)	\$565.10
b. Dental	
c. Vision	
d. Dual coverage (medical, drug & chiro)	
e. Drug Plan	

The Employer shall pay the same monthly contribution for each member enrolled in a two-party medical plan (PPO or HMO), regardless of which plan is chosen.

3. The amounts paid by the Employer shall be based on the plan year 2016-2017 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with two or more dependent-beneficiaries enrolled in the following Trust Fund health plans:

- a. Medical (PPO or HMO) (medical & chiro) \$734.28
- b. Dental
- c. Vision
- d. Dual coverage (medical, drug & chiro)
- e. Drug Plan

The Employer shall pay the same monthly contribution for each member enrolled in a family medical plan (PPO or HMO), regardless of which plan is chosen.

4. For each Employee-Beneficiary enrolled in the Trust Fund group life insurance plan, the Employer shall pay no more than \$4.12 per month which reflects one hundred percent (100%) of the monthly premium. The Employer shall also pay one hundred percent (100%) of any administrative fees.

D. No later than three (3) weeks after the Trust Fund Board formally establishes and adopts the final premium rates for Fiscal Years 2015-2016 and 2016-2017, the Office of Collective Bargaining shall distribute the final calculation of the Employers' monthly contribution amounts for each health benefit plan.

E. Payment For Plans Eliminated Or Abolished. The Employer shall make no payments for any and all premiums for any portion or part of a Trust Fund health benefit plan that the Trust Fund Board eliminates or abolishes.

F. Rounding Employer's Monthly Contribution. Whenever the Employer's monthly contribution (premium plus administrative fee) to the Trust Fund is less than one hundred percent (100%) of the monthly premium amount, such monthly contribution shall be rounded to the nearest cent as provided below:

1. When rounding to the nearest cent results in an even amount, such even amount shall be the Employer's monthly contribution. For example:

- (a) \$11.397 = \$11.40 = \$11.40 (Employer's monthly contribution)
- (b) \$11.382 = \$11.38 = \$11.38 (Employer's monthly contribution)

2. When rounding to the nearest cent results in an odd amount, round to the lower even cent, and such even amount shall be the Employer's monthly contribution. For example:

- (a) \$11.392 = \$11.39 = \$11.38 (Employer's monthly contribution)
- (b) \$11.386 = \$11.39 = \$11.38 (Employer's monthly contribution)

Employer contributions effective July 1, 2015 and July 1, 2016, for items 1a, 2a, and 3a, reflect the rounding described in item F.

Employer contributions effective July 1, 2015 and July 1, 2016, shall be rounded as described in item F after administrative fees have been determined by the Trust Fund Board.

G. If a document covering periods beyond the term of this document is not executed by June 30, 2017, Employer contributions to the Trust Fund shall be the same monthly contribution amounts paid in plan year 2016-2017 for the Health Benefit Plan approved by the Trust Fund including monthly administrative fee.

#### ARTICLE 52 – MISCELLANEOUS

A. *RESERVED*

B. The Employer shall either reimburse the Employee for the reasonable value, or pay for the actual cost of repair, of personal clothing, prescription glasses, and watches which are maliciously damaged or destroyed by another person or animal while the Employee is acting in the discharge of the Employee's duties and without negligence.

The Employer's liability shall be limited to fifty dollars (\$50) for watches.

C. *RESERVED*

D. Wherever the Employer deems it feasible, the Employer may allow Employees to work staggered or flexible hours. Employee participation in such program shall be on a voluntary basis.

E. Section 78-12, Hawai'i Revised Statutes, relating to "salary withheld for indebtedness to the government" which also covers salary overpayment shall apply to affected Employees.

#### ARTICLE 53 – NO STRIKE OR LOCKOUT

A. Employees shall not instigate, aid or engage in any work stoppage, slow down, sickout, refusal to work, picketing or strike against the Employer.

B. The Employer agrees that , there shall be no lockout.

C. Any violation of this Article by the Employer shall not be subject to Article 10, Appeal Procedure, but may be subject to legal remedies as provided by law.

D. Disciplinary action taken against an Employee for violation of this Article shall be subject to Article 10, Appeal Procedure.

**ARTICLE 54 – RESERVED**

**ARTICLE 55 – RESERVED**

**EXCLUDED MANAGERIAL COMPENSATION PLAN (EMCP) SALARIES**

A. Subject to the approval of the respective legislative bodies and effective February 22, 2016

1. The salary schedule in effect on February 21, 2016 for EMCP employees excluded from BU 3 and BU 4 shall continue to be in effect from February 22, 2016 through December 31, 2016. This salary schedule shall be designated as Exhibit C.

2. Following A.1. above, Employees shall continue to receive their existing basic rate of pay.

B. Subject to the approval of the respective legislative bodies and effective July 1, 2016

1. Due to the legislative intent of Act 137, SLH 2013, the BU 14 salary schedule in effect on June 30, 2016 was restructured to address the specialized needs of the bargaining unit. In accordance with chapter 89C, excluded managerial compensation plan employees who are employed as of June 30, 2016 shall receive a twelve and one-half percent (12.50%) increase to their basic rate of pay.

2. Following B.1. above, Employees shall receive a four and one-half percent (4.50%) increase to their basic rate of pay.

C. Subject to the approval of the respective legislative bodies and effective January 1, 2017<sup>1</sup>

The salary schedule in effect on December 31, 2016 shall be replaced with the salary schedule in Exhibit D. Employees who are paid less than the applicable salary range minimum shall have their pay increased to the salary range minimum.

D. Employees shall not be eligible for WIRPs during the period February 22, 2016 to June 30, 2017.

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<sup>1</sup> This salary schedule is being implemented to coincide with the January 1, 2017 salary schedule being implemented for EMCP employees excluded from other bargaining units.